NOTE

This book is a translation of **Se’âdet-i Ebediyye,** which was originally written in Turkish.

The Turkish original of the book **Se’âdet-i Ebediyye** consists of three parts, all of which add up to well over twelve hundred pages.

We have translated the entire book into English and published our translations in six individual fascicles.

Se’âdet-i Ebediyye is a book prepared according to the Hanafî Madhhab. There is not a single bit of knowledge or a word which contradicts the creed of Ahl-i Sunnat wa’l Jamâ’at in this book.

This is the fifth fascicle. We pray for the help of Allâhu ta’âlâ, so we may have it reach our dear readers.

An Important Note: Missionaries are striving to advertise Christianity; Jews are working to spread out the concocted words of Jewish rabbis; Hakîkat Kitâbevi (Bookstore), in Istanbul, is struggling to publicize Islam; and freemasons are trying to annihilate religions. A person with wisdom, knowledge and conscience will understand and make the right one of these choices and will help to spread that for salvation of all humanity. There is no better way and more valuable thing than doing so, to serve humanity.

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Bismi’llâhi ’r-rahmâni ’r-rahîm.

With the Basmala, let us begin reading this book!
The name Allah is the best shelter.
His blessings are immeasurable, incalculable.
He is the Rabb, the most Compassionate, the most Merciful!

P R E F A C E

I begin writing the book **Endless Bliss** in the name of Allah. Pitying all the people in this world, He creates and sends useful things to them. In the next world, favouring whomever He wishes of those Muslims who are to go to Hell by forgiving them, He will put them into Paradise. He, alone, creates every living creature, keeps every being every moment in existence, and protects all against fear and horror. Trusting myself to the honourable Name of such a being as Allah, I begin to write this book.

Allâhu ta’âlâ has created everything, the living and the non-living, out of nothing. He alone is the Creator. Because He pities mankind very much, He creates and sends everything that is necessary for a comfortable, sweet and cheerful existence in this world and the next. As the most superior and valuable of His endless blessings, He has made distinctions for us between the way of truth leading to felicity and the way of falsehood, which brings about misery and sorrow. He has always commanded goodness, diligence, and helping others. He has declared that He will call all people to account following the rising after death, that those who do good deeds will live in endless happiness in Paradise, whereas those who do not believe in the teachings of His prophets ‘’alaihimu-s-salâm’ will remain in endless torment and pain in Hell. Therefore, we begin writing this work with the dhikr of His Name, trusting ourselves in His help. We also see it as an honourable duty upon us to express our gratitude and love for those superior men called “Prophets”, and especially, for the most superior of them, the Last Prophet, Muhammad ‘’alaihi-s-salâm’, whom He has selected as an intermediary and messenger to guide human beings to the way of felicity and comfort.

Islam’s adversaries, who are against Islam as a result of sheer ignorance, learned from the bloody, dismal experiences they had had for centuries that it would be impossible to demolish Muslim people unless their îmân was demolished. They attempted to mispresent Islam as hostile against knowledge, science and bravery, while, in fact, it is a protector encouraging every kind of progress and improvement. They aimed at depriving younger generations of knowledge and faith, thus shooting them on the moral front. They spent millions of sterlings for this purpose. Some ignorant people, whose weapons of knowledge and belief had been rusted and who had been seized by their ambitions and sensuous desires, were easily undermined by these attacks of the enemies. A part of them took shelter behind their etiquettes, pretended to be Muslims, disguised themselves as scientists, authorities and religious savants and even, protectors of Muslims, and embarked on stealing the belief of pure youngsters. They misrepresented

evil as a talent, and irreligiousness as a virtue, a mode. Those who had faith (îmân), were called fanatics, retrogressive bigots. Religious knowledge, valuable books of Islam were said to be reactionary, retrogressive and bigoted. By imputing the immorality and ignominy, which is their own characteristic, to Muslims and to great men of Islam, they strove to slander those noble people and sow discord between children and fathers. Also, they spoke ill of our history, attempted to darken its shining and honourable pages, to blemish the pure writings, to change the events and proofs in it, to sever the youth from faith and belief, and to annihilate Islam and Muslims. In order to untie the sacred bond which placed into the young hearts the love of our ancestors, whose fame and honour had spread all over the world owing to their knowledge, science, beautiful morals, virtue and bravery, and to leave the youth deprived of and estranged from the maturity and greatness of their ancestors, they attacked hearts, souls and consciences. However, they did not realize that as Islam got weaker and as we got further away from the path of Messenger of Allah, not only were our morals corrupted, but we also gradually lost our superiority in making every kind of means, and in the modern knowledge which the century necessitated, and we, let alone maintaining any more the accomplishments of our ancestors in militarism, in science and arts, became worse. Thus, these masked disbelievers tried, on the one hand, to cause us to remain behind in knowledge and science, and on the other hand they said, "Islam causes us to remain behind. In order to cope up with western industries, we have to abolish this black curtain and get rid of this oriental religion, the laws of deserts." Consequently, they demolished our material and spiritual values and did our country the harm which the enemies from outside had been wishing, but failed, to do for centuries.

He who wants to attain happiness in this world, in his grave, and in the Hereafter must, after adapting his îmân to the Ahl-as-sunnat, live in obedience to one of the four Madhhabs. In other words, all his worships and actions must be suited to one Madhhab. Of the four Madhhabs, he must choose the one that is the easiest for him to learn and follow; after learning it, he must act in accordance with it in everything he does. The savants of the Ahl-as-sunnat declared unanimously that when doing a certain thing, it is not permissible to mix the four Madhabbs with one another. That is, it is never permissible to do one part of something or a worship according to one Madhhab and another part according to another Madhhab. If one does so, one will have disobeyed the unanimity of the savants and will have followed none of the Madhhabs. To follow one Madhhab means to learn it and to intend to follow it. It is not acceptable to follow it without the intention.

A person who does not follow a Madhhab is called a **lâ-madhhabî**. A lâ-madhhabî person cannot be **Ahl-as-sunnat**. His worships are not sahîh (correct, valid). It is harâm to change one's Madhhab for worldly advantages in order to get the desires of one's nafs (lower self). Each Muslim must learn at least one Madhhab and do all his deeds accordingly.

May Allâhu ta'âlâ protect us all from being deceived by the insidious enemies of Islam, from being trapped by lâ-madhhabî people or by religion reformers who bear Muslim names! Âmîn.

Mîlâdî	**Hijrî Shamsî**	**Hijrî Qamarî**
2001	**1380**	**1422**

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1 – PAYING ZAKÂT

It was during the month of Ramadân in the second year of the Hegira when it became fard to pay zakât. Zakât has one fard: It is to reserve at a certain time a certain amount of one’s **property of zakât,** which is one’s full property and which has reached the amount of nisâb,[1] with the intention of zakât, and to give it to those prescribed Muslims as commanded. Full property means one’s own property that has come through halâl (legitimate) means and which is possible and halâl (permitted) for one to use. The property of a waqf is no-one’s property. If one has not mixed one’s own possessions with the harâm possessions such as those obtained through usurpation, theft, bribery, gambling or by selling alcohol, or if one has not mixed with one another those harâm possessions which one obtained from various people, such property never becomes one’s own property. It is not halâl for one to use them or to make them one’s means of subsistence. One cannot use them to make mosques or in any other pious deeds. It is not fard for one to pay their zakât. That is, they are not counted in calculating the nisâb of zakât. If their owners or their heirs are known it is fard for one to return those goods to them. If they are not known one may distribute all of the (harâm) possessions to the poor as alms though one will (still) have to compensate for the possessions if, later, their owners or their owners’ heirs appear with a demand for compensation. If the possesions are not durable and will deteriorate until one finds their owners, it is permissible to

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[1] Nisâb means border. The border between richness and poverty prescribed by Islam is termed nisâb.

use them and to indemnify afterwards, that is, to pay their equivalents or, if their equivalents are not avaliable, to pay for them. Please see the definition of **Mulk-i-khabîth** given in pages ahead and also in the forty-second chapter of the first fascicle of **Endless Bliss**. A person who holds a share in a company of commerce, if his share is as much as the nisâb, has to calculate the zakât of his share and pay it. Ibni 'Âbidîn says in the subject of Bey' wa Shirâ (buying and selling)[1]: "Religious officials are not permitted to sell the provisions they are to obtain from pious foundations before they take possession of them. For, though they are rightful entitlements, goods rightfully entitled to a person do not become his property before he takes possession of them. The booties (ghanîma) taken away from the enemy rightfully belong to the soldiers when they are taken to the Dâr-ul-islâm. But they do not become their property before they are divided into shares and distributed." For this reason, the salaries and wages that civil servants and employees are to receive do not become their property before they receive them. The zakât of a salary or a wage is not given before it is received. The money deducted from them by unions or insurance companies, or the deductions for savings, bonds, are not included in the calculation of zakât. When it is received years later, only the money received is added to the basic amount for the year's zakât. The case is not so with the bonds taken in exchange for what is sold. These and stocks and securities are included in the zakât every year.

The 'ulamâ of the Hanafî Madhhab stated that it is fard for every male or female Muslim who is **mukallaf**, that is, who is discreet and has reached the age of puberty [the age when he or she has begun to become junub and must perform the ablution of ghusl], and who is free, to pay zakât when he or she has the conditions. To pay zakât it is necessary to put the goods into the poor person's possession, that is, to hand them to him. If a poor and discreet orphan's walî feeds him, this does not count as zakât. But if he hands the food to the orphan, or if the walî clothes the orphan, zakât has been paid. If he eats with the poor orphan who has not reached the age of discretion, he has paid zakât. Being a walî is possible by being appointed the orphan's guardian by the orphan's father or by a judge. Because the appointed person has the right to take the presents to be given to the orphan and give them to him, he can also buy clothes, food and other necessary

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[1] Please see the twenty-ninth chapter for **Bey' and Shirâ**.

things with his own zakât, (which he has to pay,) and give them to him. It is written in **Bezzâziyya** that the maintenance given to one's poor relatives by a judge's decision is comparable to this. Yet the zakât intended (to be paid) to other poor people must be paid (only from the property of zakât concerned) without any substitution. Imâm Nasafî 'rahmatullâhi 'alaih' wrote in **Zahîra**: "It is written in **Ziyâdât**[1] that a rich person will not have paid zakât by buying food and giving it to the poor." It is written in **Bezzâziyya** and in **Fatâwâ-i Hindiyya**: "If one gives the flesh of one's Qurbân to the poor with the intention of the zakât of one's sheep, it will not be zakât." It is written in **Îdâh**[2]: "The zakât which is to be given to a child or to an insane person can be given to his father, to his relative who is his walî, or to his wasî."

In all four Madhâhib (Madhhabs), there are four types of **property of zakât**:

1 - Quadruped animals that graze freely in the fields for the major part of the year.

2 - Gold and silver.

The author of **Durr-ul Muntaqâ** 'rahmatullâhi 'alaih'[3] states: "When over twelve carats, the zakât of gold and silver is to be paid, whether they be used as currency or used in a halâl way, such as jewelry by women, or used in a harâm way, such as men's wearing gold rings, or they be kept in order to buy a residence, food or shrouds or even if they are necessities like a sword [or a gold tooth]." Hence, it is harâm for men to wear gold rings. Please see the final pages of the second chapter of the sixth fascicle of **Endless Bliss**.

3 - Commercial property or commodity which is bought for trade and kept for trade.

While explaining the causes and the conditions of zakât, Hadrat Ibni 'Âbidîn 'rahmatullâhi 'alaih' stated: "The property should have been bought with the intention of trading. Even if one intends to trade in things that come out of land areas liable to the 'Ushr, or which are obtained through inheritance, or which have become one's property when one has accepted them, such as

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[1] Written by Muhammad Shaybânî 'rahmatullâhi ta'âlâ 'alaih', (135 [752 A.D.], Wâsit – 189 [805], Ray.)

[2] Or **Izâh**, a commentary, rendered by Kermânî, to the **Mukhtasar-i-Qudûrî**, which in turn had been written by Abul-Husayn 'Ahmad bin Muhammad Baghdâdî 'rahmatullâhi 'alaih'.

[3] Alâ-ud-Dîn Haskafî, (1021, Haskaf – 1088 [1677 A.D.].)

presents and bequests, they do not become commercial property. For, the intention of trading is valid only in buying and selling. For example, if a person who obtains wheat from his field pays its 'Ushr or who has obtained urûz through inheritance keeps it with the intention of selling it, and if it is more than the amount of nisâb and is kept for more than a year, it is not necessary to pay its zakât." If he sows in his field the wheat which he has bought for trade [in order to sell], or if he intends to use personally the animal or the cloth which he has bought for trade, it is no longer commercial property. If later he intends to sell it, it does not become commercial property. The goods that he obtains by selling it or by renting it out become commercial property. If after buying he intends to sell the property which he has bought for use, or if when obtaining he intends to sell the urûz which he has obtained by inheritance or such things as presents, bequests and alms which become his property by his accepting them, or if he intends to sell the wheat he gets from his field, they do not become commercial property. If he sells them and if while selling them he intends to use in trade the urûz which (he gets in exchange for them and which) are their themens (badals), these badals (prices, values) become commercial property. For, trade is an activity. It does not happen only with an intention. It is necessary to begin it as well. But desisting from trade happens only with an intention. In fact, desisting from everything can be done with an intention only. Likewise, one does not become a musâfir and break one's fast only with an intention. Nor does a disbeliever become a Muslim or an animal **sâima**[1]. But the reverse of these happen only with an intention. One's gold and silver belongings and paper money are property of zakât, by whatever means one has obtained them.

4 - Things coming out from all kinds of land that are watered by rains, rivers or brooks and which are not taxed with kharâj, (even if they are not kinds of land with 'Ushr), or from the land belonging to a Waqf (pious foundation). Their zakât is termed **'Ushr**. It has been commanded in the hundred and forty-first âyat of An'âm Sûra of the Qur'ân to pay the 'Ushr,[2] and has been elucidated in a hadîth-i-sherîf to give one-tenth. 'Ushr is one-tenth of the crops. But **kharâj** can be one-fifth, one-fourth, one-third, or half. It is necessary to pay either the 'Ushr or the kharâj of land. A

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[1] See THE ZAKÂT OF ANIMALS, in the following pages.

[2] **"...Eat of their fruit in their season, but render the dues that are proper on the day that the harvest is gathered. ..."** (6:141)

person who is indebted to people does not deduct the amount of his debt, but pays the precise amount of his 'Ushr.

There is one fard in zakât: To make an intention (niyyat). An intention is made with the heart. When reserving or giving the zakât of one's property, if one intends, "I shall pay the zakât for Allah's sake", and then says that one lends it or that one gives it as a present while giving it to the poor or to the person whom one has appointed one's deputy to pay it to the poor on one's behalf, it is acceptable. Words are not important. If one intends for zakât and for alms at the same time, it becomes zakât according to Imâm-i-Abû Yûsuf. According to Imâm-i-Muhammad 'rahmatullâhi ta'âlâ 'alaih', however, it is alms, and one has not paid one's zakât. The debt of zakât of a person who has died intestate is not to be paid from the property he has left behind. For, he should have intended to do so. His inheritors may pay it from their own property. [In this case the isqât[1] of the zakât will have been performed]. If one does not intend while reserving the zakât or while giving it to the poor and intends long after giving it, it is acceptable as long as the property is in the poor's possession. The intention which one makes while giving the zakât to one's deputy is enough. It is not necessary for the deputy also to intend while paying it to the poor. It is also permissible for one to appoint a zimmî, that is, a countryman who belongs to another religion, one's deputy to pay one's zakât to the Muslim poor. Yet it is not permissible to send a zimmî as one's deputy for Hajj (pilgrimage). For, only the rich person himself has to intend for zakât. However, for Hajj the deputy also has to intend. If the rich person says (and intends) that it is alms or that it is kaffârat or that it is a present while handing the zakât to his deputy and if he intends for zakât before his deputy has given it with the former intention to the poor, it will be acceptable.

If a person who is the deputy of two rich people mixes their zakâts with each other without their knowing of it and then gives it to the poor, zakât has not been paid. The deputy has given alms. The deputy will pay for the zakâts. While explaining this on the eleventh page, Ibni 'Âbidîn states: "He having mixed the two amounts of zakât with each other, they have become his property. He has given the poor his own property." If he has mixed them with the permission of the two rich persons or if he has gotten permission after mixing them and before giving them to the poor, it is acceptable. It is permissible for a person who is the deputy of the

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[1] Please see the twenty-first chapter for 'isqât'.

poor to mix the zakâts he received without letting them know and then to pay them to the poor persons. It has been said (by some savants) that it is also permissible for the deputy of the two rich persons to pay them after mixing them without permission. If a rich person says to another person, [or writes to a person living overseas,] “Give this much gold as zakât on my behalf,” (or if he writes to a person in another city by letter), and if the latter buys the gold ordered with his own money and gives it to the poor, it is acceptable. According to Imâm-i Yusûf ‘rahmatullâhi ’alaih’, this person will ask for his money from the rich person later. Imâm-i-Muhammad ‘rahmatullâhi ta’âlâ ’alaih’ said: “He can ask for it if the rich person told him that he would pay him later. Otherwise he cannot ask for it.” It has been said (by savants) that if the deputy gives the zakât he has to poor people not nominated by the rich person and if the rich person agrees to it later, it is acceptable. If a person who has said (to his deputy), “Give alms to the poor on my behalf,” has not also said, “I shall pay you later,” he will not (have to) pay him. A rich person can give his deputy as much zakât as he would like to have distributed to the poor. The deputy of poor people cannot receive zakât more than the amount of nisâb for each poor person. A poor person’s deputy’s getting possession of his (the poor person’s) zakât, means the poor person’s possessing his own zakât. The property thereby paid is the poor person’s property. The zakât is not paid for animals and commercial goods belonging to a Waqf, (which is explained in the forty-fourth chapter.)

THE ZAKÂT OF GOLD, SILVER, AND COMMERCIAL PROPERTY

Living or non-living, every kind of property, such as salts obtained from earth or from the sea, oxides, petroleum and the like, when they are bought for trade, that is, for selling, become **commercial property**. Gold and silver are always commercial property for whatever purpose they are bought.

Debts that are results of borrowing and floating debts to other people that are due to be paid before the day on which it is fard to pay zakât are not included into the calculation of nisâb. In other words, first these debts are subtracted from the total of what one has of gold and silver and commercial property and one’s dues. Then, if the remainder is the amount of nisâb, one year later it will become fard to pay zakât for them. Debts that are gone into after zakât has become fard are not excusable; their zakât is to be paid. The unpaid zakâts of past years are counted as debts to other

people. That is, they are not included into the new nisâb. Ibni 'Âbidîn gives a record of the books stating that those debts that are muejjel, that is, floating debts that are to be paid back at a definite time in the future after the zakât becomes fard, such as the mahr[1] that has been made muejjel till the time of divorce,[2] are to be included into the nisâb, but it is written in **Durrulmukhtâr**, in **Hindiyya**, in **Durr-ul-muntaqâ**, in **Dâmâd**[3], and in **Jawhara-t-un-nayyira** that it is acceptable not to include into the nisâb these debts or the debts that are to be paid by instalments at definite times in future. The zakât of the money kept for hajj, nazr, or kaffârat is to be paid. For, they are not debts owed to other people. If a person who has the nisâb amount of gold and silver borrows a few sacks of barley towards the end of the year and still holds the barley at the end of the year, he does not have to pay zakât. For, the property of zakât takes priority as a source from which to pay debts. The barley, which has not been included in the calculation of zakât, cannot be considered as a source from which to pay the debt.

As for dues; there are three kinds of dues according to Imâm-i-a'zam:

1 - **Deyn-i-qawî** is the property of zakât that has been lent or the **themen** that is to be received for the selling of the property of zakât. It is included into the calculation of nisâb. When one year has passed over the nisâb of the dues or of the summing up of the dues with the money one already has, it is wâjib to pay immediately one-fortieth of each amount (of them) that one has obtained. One pays the two years' zakât of what one receives two years later and three years' zakât of the amount that one receives three years later. For example, if a person who is owed three hundred pounds receives two hundred pounds three years later, he pays fifteen pounds' value of zakât for three years, it being five pounds for each year. It is not necessary for him to pay zakât before he receives the money. If a tenant repairs a house in return for the rental with the permission of the landlord, he will have lent

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[1] Please see chapter 12.

[2] ... that can be posponed until divorce takes place.

[3] **Mejma'ul-anhûr**, written by 'Abd-ur-Rahmân bin Muhammad 'rahmatullâhi 'alaih', (d. 1078 [1668 A.D.].) His book was named after his nickname, Dâmâd (Son-in-law), because he was the son-in-law of the Ottoman Shaikh-ul-islâm in his time. The book is a commentary to **Multaqâ**, by Ibrâhîm Halabî 'rahmatullâhi ta'âlâ 'alaih'.

the expenditure to the landlord. **(Ibni ’Âbidîn)**.

2 - **Deyn-i-mutawassit** is the dues that are to be received for the selling of those animals of zakât which are not commercial property and of the items of necessity such as slaves, houses, food and drink, and for the rentals of houses. They are included into the calculation of nisâb. One year after one’s property reaches the amount of nisâb one immediately pays one-fortieth for each year of what one has received.

3 - **Deyn-i-daîf** is the inherited property or mahr. It is included in the calculation of nisâb. One year after the nisâb amount of it is obtained, you pay the zakât of that year only. If the property (of zakât) you already possess has reached the amount of nisâb, you add to it any amount of the dues you (thereafter) receive and pay also the zakât of that (newly) received amount when the year of the nisâb that you already have possessed is over. You do not wait till one year after the date of obtainment (of that amount of the dues), to pay its zakât. In fact, if you take possession of those dues that are qawî and mutawassit (and which are explained above) before one year has passed (since you obtained the nisâb amount of the property that you already have had), you add them to the amount in your possession, and pay the zakât of the entire sum at the same time. According to the two imâms, (that is, Imâm-i-Abû Yûsuf and Imâm-i-Muhammad) ‘rahmatullâhi ta’âlâ ’alaihimâ’, if any dues are the amount of nisâb their zakât is to be paid after one year has passed, even if the amount received is less than the nisâb.

Property that is lost, which has fallen into the sea, which has been usurped, or the place where it was buried has been forgotten, and dues that are denied are not one’s property in the full sense; so they are not included in the calculation of nisâb, and if they are recovered the zakâts of previous years are not paid.

Dues for which there are written proofs or two witnesses for each or which are confessed by the debtors, are included in the nisâb even if they are kept by an insolvent or poor person. When you receive them you pay their zakâts for the past years as well.

VITAL NEEDS — Are things that protect one from death. The first of them is subsistence. There are three kinds of subsistence. Food, clothing, and housing. Food includes things needed in the kitchen as well. And housing includes things needed in the house. One’s beast of transportation or a car, weapons, servants, tools of art, and necessary books are counted among vital needs.

Going on hajj also requires having money and property more

than these vital needs. Subsistence is the subsistence for you and for those who it is wâjib for you to support. Of these things the ones that are more than you need and all books other than religious and professional ones are sold to make money for hajj and are included in the nisâb of Qurbân and Fitra. But they are not included in the nisâb of zakât unless they are intended for trade. To go on hajj, if you have a house other than the one you live in, you sell it. But you do not sell the spare rooms of one house. It is not necessary to sell the house you live in and then rent another house. It is permissible to buy your vital needs before the time of hajj comes. After hajj has become fard, it is not permissible to spend the money of hajj to buy them. You should go on hajj first. While explaining the hajj, Ibni 'Âbidîn says: "Your food or money for one year is counted as subsistence. You sell what is more than that and go on hajj. A tradesman's, a craftsman's, an artisan's or a farmer's capital customary in his region is of the vital needs when the hajj is concerned. Your subsistence and that of those who it is wâjib for you to support are calculated in accordance with the customs of your city and with your friends. It is necessary to eat good food and to wear good, clean and beautiful clothes. But one should not be a spendthrift. Human rights are to be paid before Allah's rights. You should not borrow money in order to go on hajj, unless you are sure that you will be able to return it."

Money which you have reserved for buying your vital needs or for meeting the expenses of your funeral is included in the calculation of nisâb. If a person has only that money and if it is still not below the amount of nisâb one year after it has reached the amount of nisâb, he pays zakât of what remains in his possession of that money. For, zakât, fitra and qurbân are not conditional on having the vital needs. What you have of these things is not included in the calculation of nisâb.

If gold or silver or commercial property remains in your possession for one hijrî (Arabic) year (354 days) from the day its weight or value has reached the amount of nisâb, it is fard for you to reserve with the intention of zakât one-fortieth of what has remained and pay it to poor Muslims. It is wâjib to pay it as soon as possible. It is makrûh to delay it without any good excuse ('udhr) to do so. It is not necessary to intend or to say that it is zakât while giving it. This is so in all four Madhâhib.

The nisâb of gold is twenty mithqâls. A mithqâl is a unit of weight. Weight, length, volume, time, and value [money] measures are designated as shar'î and 'urfî units. Shar'î units were used

during the era of our Prophet Muhammad ‘sall-Allâhu ’alaihi wa sallam’ and are referred to in hadîth-i sherifs. The four Madhhabs’ imâms reported the definitions of the values of these units in different ways. ’Urfî units denote customary usage or units of measure adopted by the government. The four Madhhab imâms have described mithqâl equivalents differently. For example, the mithqâl equivalents in the Hanafî, Shâfi’î, and Mâlikî Madhhabs differ. Similarly there are also various ’urfî mithqâls. In the Hanafî Madhhab, one mithqâl is twenty qirâts (carats). One qirât-i-shar’î equals five peeled cut-ends of dry barley seeds. During my experiments, (the blessed Walî and profound scholar Hüseyn Hilmi Işık ‘rahmatullâhi ’alaih’ meant Himself,) [made on a very accurate balance in a pharmacy] I observed that 5 seeds of barley weighed twenty-four centigrams (gr. 0.24). Hence, one shar’î mithqâl is a hundred seeds of barley, while it is written in (Zahîra)[1] that one mithqâl is seventy-two seeds of barley according to the Mâlikî Madhhab. Hence one mithqâl is three and a half [3.456] grams in Mâlikî and four point eighty [4.80] grams in Hanafî. Hence, the nisâb of gold is 96 grams. The last adopted measure of ’urfî mithqâl, during the time of the Ottoman Empire, was 24 qirâts and one qirât was 20 centigrams (gr. 0.20). Therefore, an ’urfî mithqâl equals 4.80 grams. In this case, shar’î mithqâls and ’urfî mithqâls are of the same weight. Since the Ottoman and Republican gold coins both weigh one and a half mithqâls and one gold coin weighs 7.20 grams, the amount of nisâb is 20 ÷ 1.5 or 13.3 gold coins. 13.3 gold coins weighs 96 grams. In other words, it is fard to pay zakât for one who owns thirteen and one third (13.3) gold coins or its paper money equivalent. When one says, “A mithqâl equals 20 qirâts” one must specify shar’î mithqâl. It is necessary to multiply 20 by the 0.24 gram weight of the shar’î qirât to find out how many grams a mithqâl weighs. If the calculation had used the weight of the ’urfî qirât (0.20 gr.) the product of 4 grams would not be the correct weight of a shar’î mithqâl or an ’urfî mithqâl. It is incorrect to say the nisâb of gold will equal 4x20=80 grams by using the wrong qirât designation.

The nisâb of silver is two hundred dirham-i-shar’î. One dirham-i-shar’î is fourteen qirât-i-shar’î, which is equal to seventy seeds of barley. According to the Mâlikî Madhhab it is equal to fifty-five seeds of barley, or [2.64] grams. The weight of ten dirhams is equal

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[1] Zahîra-t-ul-fiqh-ul-kubrâ, by Tâhir Muhammad Suleymân Mâlikî of Sudan ‘rahmatullâhi ta’âlâ ’alaih’.

to the weight of seven mithqâls in the Hanafî Madhhab. When three-tenths of a mithqâl is subtracted from one mithqâl the remainder is one dirham. When three-sevenths is added to one dirham the total is one mithqâl. One dirham-i-shar'î is three grams and three hundred and sixty miligrams (3.360 gr.) [0.24x14=3.36]. Therefore, in the Hanafî Madhhab the nisâb of silver is 2800 qirât or 672 grams. One majidiyya [An Ottoman silver coin] is five mithqâls, that is, one hundred qirât-i-shar'î, or twenty-four grams. So, zakât is fard for a person who has twenty-eight majidiyyas. Since twenty mithqâls of gold and two hundred dirhams of silver indicate one common amount of nisâb, their values must be equal. Accordingly, in Islam, one mithqâl of gold has the value of ten dirhams of silver, which has the weight of seven mithqâls of silver. Then one gram of gold has the value of seven grams of silver. In Islam, the value of gold used for money is seven times the same weight of silver money. Today, silver is not used as money. The value of silver is very low. For this reason, the value of silver cannot be taken as a basis in calculating the nisâb of paper money or commercial property today. Ibnî 'Âbidîn 'rahmatullâhi ta'âlâ 'alaih', says in the section about zakât of property: "The qirât-i-'urfî is four grains of barley. The dirham-i-shar'î is equal to seventy grains of barley. One dirham-i-'urfî has the weight of sixteen qirâts, that is, sixty-four grains of barley; so the dirham-i-'urfî is smaller." [Then, this dirham-i-'urfî, which was formerly used, is approximately three grams. The one qirât which was used during the latest times of the Ottomans was the weight of four seeds of wheat. It was twenty centigrams, and the dirham was 16 qirâts=3.20 grams.]

It is written in the book **al-Muqaddemat-ul Hadramiyya**: "In the Madhhab of Shâfi'î, one mithqâl weighs 24 qirâts. So one dirham-i-shar'î is 16.8 grams." It is said in the books **Misbâh-un-nejât**, and **Anwâr li a'mâl-il-abrâr**: "In the Madhhab of Shâfi'î, one mithqâl equals 72 seeds of barley. One mithqâl exceeds one dirham by three-sevenths of one dirham. The value of a commodity or commercial property is computed through its themen, that is, its purchase price." Since one mithqâl is 24 qirâts, and this equals 72 seeds of barley, then in the Shâfi'î Madhhab one qirât weighs three seeds of barley or 14.4 centigrams. Therefore, if one mithqâl equals 3.45 grams, hence twenty mithqâls equals 69 grams, which is approximately nine and a half gold coins. Because one dirham is three-tenths a mithqâl less than a mithqâl in the Madhâhib of Shâfi'î and Hanbalî, one dirham is 16.8 qirâts, that is,

two grams and fourty-two centigrams [2.42 gr.] in the Madhâhib of Shâfi'î and Hanbalî. So the nisâb of silver is four hundred and eighty-four (484) grams. It is written in **Jawâhir-uz-zakiyya**[1] that in the Mâlikî Madhhab one mithqâl is 72 grains of barley and one dirham is 55 grains of barley. In the Shâfi'î Madhhab zakât of one kind of property cannot be given from another kind of property. For example, silver cannot be given for gold; or barley for wheat. It is written in **Kimyâ-yi-se'âdat** and also in **Fatâwâ-i-fiqhiyya** by Ibni Hajar-i-Mekkî 'rahmatullâhi ta'âlâ 'alaih' that it is permissible for Muslims in the Shâfi'î Madhhab to follow the Hanafî Madhhab and give in cash[2] for property and give to one or more classes of people they choose instead of giving to all seven classes.

It is written in the thirtieth page of the second volume of **Durr-ul-mukhtâr**: "The dirham-i-shar'î is used when the nisâb of zakât is to be calculated in silver. Also there have been those (savants) who have said that the 'urfî dirham in use in each city can be used for zakât." In explaining these lines, Ibni 'Âbidîn writes: "Those savants who say that the dirham used in every city can be used, add: Yet the weight of the dirhams used should not be less than the lightest one of the three kinds of dirham used during the time of Rasûlullah 'sall Allâhu 'alaihi wa sallam'. The lightest dirham weighed half a mithqâl, i.e. ten qirâts. Otherwise, it must be calculated with the dirham-i-shar'î, which weighs fourteen qirâts. The majority of Hanafî savants advise this dirham. This dirham is meant in the books of both the old ones and the new ones." As is seen, zakât cannot be calculated with dirhams that were used in a country in old times and which have been superseded later or with the new ones that weigh less than the dirham-i-shar'î. For this reason, it is not permissible to calculate the nisâb of zakât in silver with the dirhams of Istanbul or Egypt now. It is necessary to calculate it with the dirham-i-shar'î, which weighs three grams and thirty-six centigrams [3.36 gr.].

According to the majority of the 'Ulamâ, zakât of gold and silver must be paid, regardless of the form or shape they are in and the purpose they are being used for. In the accepted unanimity (by the 'Ulamâ) in the Shafi'î Madhhab and in the Hanbalî Madhhab, zakât is not paid for gold and silver which women use for ornament.

Because gold and silver are soft when they are pure, they cannot be used as cash or as an ornament. They are used in alloys

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[1] Written by Ahmad bin Turkî.

[2] 'Gold' or 'silver' is meant by 'cash', not 'notes' or 'coins'.

mixed with metals such as copper. Gold and silver alloys of more than fifty per cent gold and silver, that is, with more than twelve carats, are judged to be pure. Their degrees of purity is not taken into consideration. But those alloys half or less of which is gold or silver are like commercial property. [It is written in a fatwâ of Ebussu'ûd Efendi 'rahmatullâhi ta'âlâ 'alaih' that in the time of Sultan Süleyman the Magnificent 'rahmatullâhi ta'âlâ 'alaih' the nisâb of silver was 840 aqchas, which means that one aqcha was a silver coin of 0.24 dirhams, i.e., eighty centigrams (0.8 gr.)]. Abdurrahman Şeref Bey says in his book, **Târih-i Devlet-i Osmâniyye** (History of the Ottoman Empire) printed in 1309 [1892 A.D.]: "During the era of Süleyman the Magnificent, three aqchas were being minted out of one dirham of silver. After 1100 [1688 A.D.], the amount of silver dwindled by a sixth. It was written on the **Ottoman Calendar** dated 1308 [1891 A.D.] that one piece is three aqchas and one aqcha equals three fulûs."

The value of commercial property, i.e. its purchase price at the time of the calculation of the nisâb, is calculated in gold or silver money used in buying and selling, and the one as per which it reaches the amount of nisâb earlier is to be taken as basis for the calculation (both in the determination of the date whereby it becomes fard to pay the zakât and in the amount to be paid.) If it equals the amount of nisâb in accordance with either one of them, it is to be calculated with the one that is more advantageous to the poor. It is not calculated with gold or silver which is not used for money. The value is calculated with the one that has the lowest value of the kinds of gold and silver money monetized by the government. The value is calculated anew according to the current prices on the day when its zakât becomes fard according to the one with which it has first been calculated, i.e. when one year has elapsed over the nisâb, and one-fortieth of the new value, i.e. of its current price of purchase, or of the property itself, is given. At places where gold and silver are now not used as money, other metal coins and paper bills are equivalents to gold. The nisâb for commercial property bought with such money or for paper bills or for fitra or qurbân is, according to the Shaikhayn (Imâm-i-a'zam and Imâm-i-Abû Yûsuf 'rahmatullâhi ta'âlâ alaihimâ'), calculated in the one that has the lowest value of the officially marked gold coins. It cannot be calculated in silver. It is written in **Kashf-ur-rumûz-i-ghurer**:[1] "The value of a commodity is determined with gold or silver".

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[1] Written by 'Abd-ul-Halîm, Mufti of Damascus.

No matter how many they are, zakât is not paid for houses, apartment houses, mechanical implements, machines, lathes, lorries, ships, or for things used in the house, when they are not for trade, that is, for sale. Artisans, manufacturers, and producers give zakât of raw material and of production. Zakât is not paid for fixed assets. Nor is it given for what is reserved for use in a house from commercial commodities or for a year's household needs reserved from commercial food. That is, all these and the debts to be repaid are not included in the calculation of nisâb. All the gold, silver and paper kinds of money which one keeps in order to buy all those things or to buy the means of subsistence, such as food, drink, clothes and housing, are included in the calculation of nisâb. That is, their zakât is to be paid.

Ibni 'Âbidîn 'rahmatullâhi ta'âlâ 'alaih' says: If the value of one's commercial property does not amount to the nisâb according to gold and silver and if one also has gold and silver, one adds the value of the property to the value of the gold and silver to complete the nisâb. For example, if one has wheat for sale the value of which is a hundred dirhams of silver, and five mithqâls of gold the value of which is hundred dirhams as well, one shall pay zakât. For the sum of the values of the gold and the wheat is two hundred dirhams according to silver and this equals the nisâb.

A person who has gold only, pays zakât in gold. He cannot pay its value in silver. Nor can zakât of silver be paid in gold. A person who has gold or silver or paper money only, and who does not have commercial property, cannot give other goods as its zakât. It is written in Shernblâlî's book **Marâqilfalâh**: "Instead of gold and silver it is acceptable to give their value in urûz, [that is, any kind of living or non-living property other than gold and silver.]" But if the same page is read completely it will be understood that it is to be given out of one's commercial property instead of gold and silver. As a matter of fact, **Tahtâwî** adds the following explanation in his annotation to that book: "Urûz means commercial property." As is stated clearly in all books of fiqh, a tradesman who has commercial property as well as gold and silver, even if each of them is equal to the amount of nisâb by itself, can pay zakât for his gold and silver out of his commercial property.

While discoursing upon zakât of sheep, Ibni 'Âbidîn 'rahmatullâhi ta'âlâ 'alaih' says: Instead of the commodities that are to be given as zakât, 'ushr, kharâj, fitra, nazr or kaffârat, it is permissible to give their equivalents in value. That is, available as they may be, one may give zakât commodities of the same or

different kind or gold or silver money of the same value. [It will be explained later on that paper money cannot be given.] The value of an animal is calculated according to the current prices of the day when it will be given. Three fat sheep can be given instead of four medium sheep. But equivalents of the same kind cannot be given instead of goods that are measured by weight or volume. Their equivalents of a different kind can be given. Zakât of gold and silver is given in weight, that is, by weighing. But zakât of crops that are intended for trade is given by volume. Equivalents of the same kind for such things which are measured by weight or volume cannot be given, for this practice entails interest. For example, instead of five dirhams of silver alloyed with copper, four dirhams of pure silver which is of the same value cannot be given. Five dirhams of lower carat silver can be given instead of five dirhams of pure silver. But it is makrûh to knowingly do so. Instead of five kilograms of low quality wheat, four kilograms of high quality wheat which is of the same value cannot be given. It is necessary to give one more kilogram. But when giving another kind of commercial property as zakât of any of these it is given according to its calculated price of purchase in the concerned country. For example, if a silver pitcher that weighs two hundred dirhams is worth three hundred dirhams on account of the art or handicraft it bears, five dirhams of silver shall be given as its zakât. Gold worth five dirhams of silver cannot be given instead. It is necessary to give gold worth seven and a half dirhams of silver. If one has both gold and silver each amounting to nisâb one gives their zakâts separately by weight, but even in this case, that is, a person who has both gold and silver is permitted to calculate their value and give in either one even if they are the amount of nisâb, provided it shall be to the advantage of the poor, that is, the current one shall be given. If one has both gold and silver one or both of which are less than the amount of nisâb and if in this case the nisâb of one of them can be complemented by calculating either one with the other, it can be given instead of the other as well. Still, one should calculate and give the one which is advantageous to the poor. [Please see chapter 5.] If the value of a silver pitcher weighing one hundred dirhams is two hundred dirhams owing to the workmanship, its zakât is not due. For, zakât is calculated according to weight. A person, who has hundred and fifty dirhams of silver and five mithqâls of gold the value of which is forty dirhams, shall give zakât. For, though the total amount calculated by the addition of gold to the silver does not amount to the nisâb, the total amount calculated by the addition of the silver to the gold reaches the

nisâb. If a person has ninety-five dirhams of silver and one mithqâl of gold and if the value of one mithqâl of gold is five dirhams of silver, it complements the nisâb of gold and so he pays zakât.

If a person dispenses millions to the poor without reserving one-fortieth with the intention of zakât or without intending to pay zakât at the time of giving it to the poor, he will not have paid zakât. For, it is fard to intend when reserving (the prescribed amount) or giving it to his deputy or to the poor or to the poor's deputy.

If the money or the commercial property one has decreases and becomes less than the nisâb or increases before one year has elapsed after the time it reached the amount of nisâb, this does not affect zakât. In other words, if it is not less than the amount of nisâb at the end of the year zakât of the amount possessed is to be paid. One does not deduct the amount of money that will be necessary to buy such things as food, clothes and housing or to pay the rental from the money which one has at the end of the year. After paying zakât of all the money one spends the remainder buying these things. In the Madhâhib of Hanafî and Shâfi'î, if the nisâb is depleted or if one depletes it before the end of the year, that is, if one does not have the amount of nisâb any longer, the previous nisâb lapses. If the amount possessed reaches the nisâb again one waits for another year, and if one still has the nisâb at the end of the year, one reserves with the intention of zakât one fortieth of what one has and gives it. In the Mâlikî and Hanbalî Madhâhib the case is the same if the nisâb is depleted. But if one depletes the nisâb in order to evade paying zakât the previous nisâb does not become void. If one obtains a large quantity of money or property[1] after one year and a few days have passed, the zakât of this extra amount does not have to be immediately paid. Its zakât is added to the following year's zakât if at that time one still possesses that amount also. A loan due to one and something that one obtains are different things. It is written in the eighty-sixth page of the book **Jâmi'-ur-rumûz**[2]: "Those things that are

[1] in addition to the amount of nisâb that one already has

[2] A commentary which Shems-ad-dîn Muhammad bin Husâm-ad-dîn Quhistânî 'rahmatullâhi 'alaih', (d. 962 [1555 A.D.], Bukhâra,) wrote for the book **Nikâya**, which in turn is itself a commentary written by 'Ubeydullah bin Mes'ûd for the book **Wikâya**, which his grandfather Mahmûd bin Sadr-ush-sharî'at-ul-awwal Ahmad bin 'Ubeydullah Mahbûbî 'rahmatullâhi ta'âlâ 'alaih', (martyred in 673 [1274 A.D.] by the Mongolian hordes,) had written for him.

obtained before one year has passed after one had the amount of nisâb, such as commercial property bought, beast of pasture (Sâima), gold and silver obtained through birth, gift, inheritance or bequest, even if they are obtained when the end of the year is quite near, are included in the nisâb of their own kind and zakât of the sum is given at the same time. This means to say that those that are obtained after the year is over are not included in the nisâb. That is, they are not included in the (previous) year's zakât but are left over for zakât of the following year. It also means that if they are obtained by one who does not have the nisâb their zakât is not to be paid that year."

THE ZAKÂT OF PAPER MONEY – It is necessary to pay zakât for paper money, too. The Shiites say that zakât for money other than gold and silver is not to be paid. The author, 'rahmatullâhi ta'âlâ 'alaih', of the book **Tâtârhâniyya**, a copy of which exists with number 1968 in the library of Nûr-i-Osmâniyye (in Istanbul) writes in the ninety-fifth page: "When the face value of the fulûs, that is, the copper money used in lieu of silver money, is two hundred dirhams of silver or twenty mithqâls of gold, its zakât is to be paid. One does not necessarily have to be using them with the intention of trade, and its equivalent in gold, that is, gold of the same value is given."

[It is written in Arabic in **Miftâh-us-sa'âda**[1], "If the value of copper coins termed fulûs amounts to two hundred dirhams of silver when calculated with silver, it is necessary to give one-fortieth of the silver equivalent of those fulûs as their zakât." Hence, the zakât of paper money is to be paid in gold. It cannot be given in paper money.

The author 'rahmatullâhi ta'âlâ 'alaih' of the book **Durr-ul-muntaqâ** states at the end of the section about sale of sarf, (which is dealt with in the final section of the thirty-first chapter:) "When fulûs becomes currency it is like silver money. If it is not legal tender it is like other commodities. It is permissible to buy something in exchange for fulûs which one has in a certain number or weight, e.g. one dirham of fulûs. Then one has to pay the fulûs weighing one dirham. Actually, the fulûs itself is not money. Consisting in pieces of metal coined so as to represent pieces of silver dirhams, it is used for buying cheap things."]

The nisâb of paper bills is calculated with the cheapest gold

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[1] Written in Arabic by Kamâl-ad-dîn Shîrwânî.

coins on the market. For, they are bonds used in lieu of gold today and being pieces of paper have little intrinsic value. Their nominal or face values with respect to gold have been determined by governments. That is, they are speculative and everchanging. For their zakât, one fortieth of their gold coin equivalent or any kind of gold of the same weight should be given. After handing the gold to a poor person, one can buy the gold back from him with the current market price and give him paper money to facilitate the transaction for the poor person. It is written in the book **Bukhârî** that (this method of) buying back (the zakât paid), and thereby using (it) in one's own transactions, is makrûh when the zakât is paid in commercial property other than these two currencies, (i.e. gold and silver.) Zakât paid in paper bills is not sahîh. It has to be paid again. If the person (who had paid zakât in paper bills) became poor afterwards, he makes qadâ by performing dawr[1] with a small amount of gold. For many centuries Muslims have paid their zakât in gold and silver. No Islamic scholar has ever said that paper bills called fulûs or bonds could be paid as zakât. The article which is said to be the fatwâ dated May 5 1338 (1922) is false. It is written in **'Iqd-ul-Jeyyid**[2] that it is not permissible in the Shafi'î Madhhab. [See the last two pages of the fourth chapter of the fourth fascicle of **Endless Bliss**.]

While discoursing over sale of sarf, **Ibni 'Âbidîn** 'rahmatullâhi ta'âlâ 'alaih' writes: "If the fulûs, that is, the copper coin, is legal tender, it becomes money as per its face value. If its face value is not valid it becomes valueless property." And he says on the thirteenth page: "Bonds have two kinds of value: the first one is the value stated on it, which indicates the bond holder's property which he does not possess; the second value, the value of the paper itself, is quite insignificant." If one is in possession of one's property, the property is called **'Ayn**. If one does not possess it, it is termed **Deyn**. The value stated on a paper bill indicates the property of zakât which is deyn. It is written in the twelfth page of **Durr-ul-mukhtâr**: "It is not permissible to pay in deyn zakât of property which is an 'ayn or which is a deyn due to be returned. It is necessary to give it from property which is an 'ayn." For example, if a person donates with the intention of zakât five dirhams of two hundred dirhams which a poor person owes him

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[1] Please see the twenty-first chapter for dawr and isqât.

[2] Written by Shâh Waliyyullah Dahlawî 'rahmatullâhi ta'âlâ alaih', (1114 [1702 A.D.] – 1176 [1762], Delhi.)

and takes back the rest, it is not acceptable (as the zakât of the entire two hundred dirhams. He has paid zakât of those five dirhams only.

It is wrong to say, "Paper bills cannot be compared to ordinary documents prepared and signed up by a few people. They are valid everywhere. They are like gold." For, **Ibni 'Âbidîn**, in the subject of oaths (yamîn), quotes Imâm-i-Abû Yûsuf as making the following statement in his book **Kharâj and 'Ushr**, which he wrote for Hârûn Rashîd: "It is harâm for the Caliph to take currency other than gold and silver, e.g. the coins called Sutûqâ, from land owners as their kharâj or 'ushr. For, though these are officially marked coins and are to be accepted by everyone, they are not gold but copper. It is harâm to accept any money which is not gold or silver as zakât or kharâj."

It is not taqwâ to pay zakât of paper money in gold. Taqwâ in acts of worship means to strive so that everything will be acceptable to all the imâms of a Madhhab and even to all (four) Madhhabs. If it is claimed that the poor consent to paper money and meet their needs with it, then (it should be noted that) it is Allâhu ta'âlâ's consent which is necessary, not the poor's consent. For example, **Ibni 'Âbidîn** says in the twelfth page: "If a poor person owes to a rich person, who gives the bond of debt to the former and says, 'I have intended to pay you as zakât as much as you owe me. So, accept this and take it as the equivalent for your debt so that we will have paid our debts mutually,' and if the poor person says that he accepts it, Islam will not accept this and the rich person will not have paid his zakât. For, zakât is not performed by uttering empty words, by giving bonds of debt, or by (mutual) consent; it is performed by handing the commodity. The rich person has to pay his zakât to the poor person and the poor has to pay his debt by returning it to the rich after taking it from the rich. The same rule applies in the Madhâhib of Shâfi'î and Hanbalî. If he cannot count on the poor person's returning the money, he shows a person whom he trusts to the poor person and says, 'Appoint this person your deputy to take your zakât and to pay your debt,' and then gives zakât to the deputy, who returns it to the rich person, thus paying the poor person's debt." The same is written as such in the books **Durr-i-yaktâ** and **Mizân-i-kubrâ**.

Ibni 'Âbidîn 'rahmatullâhi ta'âlâ 'alaih' says in the same page: "If a rich person, in order to give a poor person zakât of his 'ayn property, that is, property which he possesses, [or of the deyn golds which are the equivalents of the paper bills he has], gives the bonds

of debts which someone else owes to him [or the paper money to buy gold in a bank or from a money-changer] to the poor person and advises the poor person to take the commodities stated on the bonds from the debtor [or to buy gold in a bank or from a money-changer with the paper bills], when the poor person has taken the commodities from the debtor, [that is, when he has obtained gold by giving paper money], zakât of the rich person has been paid in 'ayn. Unless the poor person takes possession of the property [gold], zakât will not have been given only by giving the bonds [or the paper money]. For, when the poor person takes the property [the gold], the bond, [i.e. the paper money] becomes property [gold], and thereby zakât of an 'ayn [or a deyn] has been given in 'ayn." As is seen, it is definitely necessary to pay zakât of paper money in gold, or to have the poor person who is given paper money to change it for gold in a bank or money changer's office, or to command the poor person to change it for gold while giving him the paper money. If the poor person does not change the paper money given for gold, the rich person will not have paid zakât. For, it is the rich person's duty to change it for gold, that is, to pay zakât of property that is in the category of deyn, in 'ayn.

In short: Those who do not have commercial property have to pay zakât of paper money in gold. It is always easy to find gold and to exchange paper money for gold. For, the gold does not have to be in coins. Bracelets, rings, or gold in any form can be given after being weighed. And such things can be found in any jeweller's shop far and near. A rich person who is in a place where gold is not available at all, if he does not have commercial property either, appoints as his deputy a Muslim who is in a city where gold is available and sends him paper money. And the deputy changes the paper money for gold and gives the gold to the poor. He (the rich person) can directly appoint the poor person his deputy as well. If the poor person lives far away from the rich person or his deputy and if gold is not available in the city where the poor person lives, the gold can then be given to the poor person's deputy appointed by the poor person. In fact, advised by the poor person, the rich person can give the gold which is his zakât to the poor person's creditor, thus freeing the poor person from his debt. In this case the creditor has become the poor person's deputy to take zakât. But the poor person's consent, that is, his appointing him the deputy beforehand, is a prerequisite.

To say that zakât cannot be paid in paper money does not mean to say that one should not pay zakât in paper money. It means that

the paper money should be given compatibly with Islam. To pay the zakât of one's commercial property in paper money compatibly with Islam, one should do as the rich person would do who wanted to pay debts concurrently with the poor person by intending to give the poor person the amount of gold equivalent to what the poor person owed him. And this is instructed as follows in **Ashbâh**, in **Radd-ul-muhtâr**, and at the end of the sixth volume of **Hindiyya**: The rich person borrows the gold equivalent for the paper money which he wants to give the poor and which is less than the amount of nisâb from his wife or from someone else. Then he finds a pious poor person. If, however, he cannot trust him, he says to him, "I shall pay zakât in paper money to a few acquaintances of mine and to you. Our religion commands that zakât should be paid in gold. In order to change the gold into paper money easily, I want you to appoint so and so as your deputy **to take your zakât and to spend it as he likes**. Thus you will have helped me obey the Islamic rules. And you will earn thawâb for this." Thus a person whom the rich person trusts has been appointed deputy. The deputy can passably be a rich person. He gives the gold with the intention of zakât to the deputy in the poor person's absence. Hence, the zakât will have been given to the poor. A few minutes after receiving the gold, the deputy sells them for paper money to the rich person, and then gifts the paper bills which he has received to the rich person. And the rich person distributes these paper bills to that and other poor people, [to schools where they teach Qur'ân al-kerîm, and to those Muslims who serve Islam and make jihâd.] If he gives it to the rich its thawâb will be less. If he does not give them to anybody or if he gives them to people who do not have the qualifications prescribed by Islam, such as those who do not perform namâz, he will escape the torment for (not having paid) zakât, but he will not attain its thawâb. If there is a poor person who he is sure will not take away the gold, he pays his zakât directly to this poor person. A few minutes after receiving the gold, the poor sells it to the rich who has paid his zakât. He returns the paper money that he had taken to the rich as a gift. He may as well give the gold back as a gift instead of selling it. And the rich distributes the paper money of the same value to the places we have described above. Then the rich returns the gold to the lender. If the zakât he has to pay is more than the nisâb he repeats the procedure. It produces more thawâb to dispense the zakât in gold. By doing so others will be shown and taught that zakât should be paid in gold. To pay the

zakât to the poor or to a deputy in gold and then to convert it into paper money, is called **Hîla-i shar'iyya**. This technique, which is inevitably applied for the purpose of paying zakât compatibly with Islam's prescription, yields much thawâb. The twenty-first and fortieth chapters of the current fascicle inform us that it is permissible to do hîla-i shar'iyya, and for the poor person to give back (as a gift) the money. However, after zakât becomes fard, it becomes harâm to practise this technique if it is intended to avoid giving zakât; it is considered a fraud **(Hîla-i-bâtila)**. To employ the technique called hîla before zakât becomes fard is makrûh according to Imâm Muhammad, whereas it is jâiz (permissible) according to Imâm Abû Yûsuf. Please see the final part of the fortieth chapter.

The two hundred and seventy-fifth âyat of Sûra Baqara purports: **"Allah destroys completely the income and property earned through usury. He lets none of it remain. But He increases the property for which zakât is paid."** People who do not know or believe this promise of Allâhu ta'âlâ's, try to avoid paying zakât. Some people resort to hîla-i bâtila in order not to pay the poor and the government their due. One of the hîla-i-bâtilas they have been practising recently is converting their cash into landed property, such as a house or a store or an urban or rural land plot, in order to avoid attaining the nisâb of zakât, and then renting out their purchases. This trickery absolves them from the obligation of paying zakât, only to entangle them with another obligation, the obligation of supporting their poor relatives. And this second situation, in its turn, is something they are quite unaware of. Consequently, they not only neglect the fard of paying nafaqa to their poor relatives, but also deprive themselves of the thawâb (that Allâhu ta'âlâ promises) for Sila–i-rahm (visiting one's relatives). In addition, they confine to heaps of stone and earth the money that could otherwise be utilized in trade, industry, and for the country's economic development. It goes without saying that in consequence they remain forever deprived of the abundance and wealth that Allâhu ta'âlâ promises to the givers of zakât.

While discoursing about the kinds of oath, **Ibni 'Âbidîn**, **Mawqûfât** and the authors of many other books 'rahmatullâhi 'alaihim ajma'în', write that "If a person swears: I shall pay today so much silver which I owe to so and so, and if he in lieu gives zuyûf,[1] or silver more than half of which is copper, he will have fulfilled his

[1] Please see the ninth paragraph of the twenty-ninth chapter.

oath. If he gives fulûs, that is, currency made of bronze, tin or copper, [or paper money], or if the lender gifts or donates the loan to his sworn debtor, the debtor will not have fulfilled his oath. For, copper coins are not silver. The debtor has to return the money. The sworn debt will not become cancelled with the lender's word." Although zuyûf means coin with admixed silver, its copper content is not more than half. Fulûs means metal coin other than gold and silver. As is seen, even though the zuyûf is considered as silver in the matter of oath, the fulûs, that is, currency made of copper, [or paper money], is still not acceptable, that is, it is not permissible.

Lâ madhhabî and ignorant people say, "Paper money cannot be compared to bonds written out between two people. It is the day's currency. It has become attested to universally. Today it has become indispensable to give it as zakât." They should not be believed. Something cannot be universal, indispensable or permissible only because we, common people, say that it is so. It is mujtahids' right and authority to have a say on this subject. There is no mutlaq (absolute) mujtahid on earth today. For this reason, it is not permissible for any Muslim to go beyond the limits of the four Madhâhib. Mujtahids' fatwâs, which cover even today's conditions, have been given above. While discoursing upon how to listen to the khutba, Ibni 'Âbidîn wrote: "Traditions that began during the time of the Sahâba 'radiy-Allâhu ta'âlâ 'anhum ajma'în' and mujtahids and which have been going on are to be taken as proof-texts for halâl. Traditions introduced later cannot be dalîl shar'î." [This statement is a telling argument to support the fact that it is not permissible to amplify the azân by using a loudspeaker.]

In the Ottoman Empire, the world's greatest Muslim state, paper money was first used in 1256 [1840 A.D.]. Later it was abandoned. It was used in 1268 [1851] for the second time and in 1279 [1862] for the third time, each time being revoked some time later. Its fourth monetization took place in 1294 [1877 A.D.] under the entitlement of the Ottoman Bank, and from then on it has been in use up till now, being changed ever and again. In none of the books written or the fatwâs given during that long period has it been said or stated that zakât could be paid in paper money. People have always paid their zakât in gold and silver. It is written in the forty-fourth page of **'Iqd-ul-jayyîd** that it is not permissible to pay zâkât in fulûs in the Madhhab of Shâfi'î, either.

Every Muslim should always be considering the amount of the property of zakât he has and record the day it reached the amount of nisâb. If the nisâb perishes before one year has passed from that

day, that is, if he no longer has any property more than he needs, the day which he has recorded as the beginning date no longer has value. If he obtains the nisâb amount again before the year is over, it is fard for him to note down the date anew and to pay zakât one year after that date, if the nisâb has not perished and is still in his possession. This rule applies even if the nisâb perishes at the end of the year, that is, after it has become fard (to pay zakât). In this case zakât will be excused, and if he obtains the nisâb amount of property again he will have to wait for another year. For, it is not necessary in the Hanafî Madhhab to pay zakât as soon as it becomes fard. If he dies before having paid it, it is not to be paid from the property he has left behind. In the Madhâhib of Shâfi'î and Mâlikî, it is fard to set aside the amount of zakât and pay it as soon as it becomes fard **[Mîzân-i-Sha'rânî]**[1]. If the nisâb does not perish altogether but only becomes depleted during the middle of the year and if it reaches the amount of nisâb again by the end of the year, zakât becomes fard and now he gives one-fortieth of what he still has. If the property that has fallen down below the amount of nisâb during the year does not reach the amount of nisâb again by the end of the year, zakât does not become fard. If his property equals the amount of nisâb after that, he has to wait for one year from that day on. If after the zakât has become fard his property does not perish (for justifiable reasons) but if he spends or wastes it himself or goes into debt, zakât will not be excused. If he has lent the property or given it to someone as 'âriyat (for temporary use) and cannot take it back, the property has perished (for justifiable reasons). He has not destroyed it himself. It is makrûh according to the unanimity (of the 'Ulamâ) to waste one's property after zakât has become fard in order not to pay zakât. And according to Imâm-i-Muhammad, also before the zakât has become fard, it is makrûh to seek for ways so that it will not be fard. Please see the fortieth chapter of the current fascicle, (and please see the thirty-seventh chapter for **'âriyat**.)

If you have not mixed commodities of zakât obtained by harâm means with your own property, you do not include them in the nisâb. For, they are not your own property. It is fard for you to return them to their owners or (their owners') inheritors, or to give them as alms to the poor if you cannot find anyone of them. If you

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[1] Mîzân-ul-kubrâ, written by 'Abd-ul-Wahhâb Sha'rânî 'rahmatullâhi ta'âlâ 'alaih', (d. 973 [1565 A.D.].)

have mixed them, the case is the same if you can separate them. If you cannot separate them, you pay this debt to the owners from your halâl zakât property. You keep this zakât property until the owners are found. You do not pay zakât for them or for the mixture, since they are not fully your property. If you have zakât property amounting to nisâb other than the two mentioned above, you should pay zakât both for this nisâb and for the mixed property. After payment as well, zakât becomes fard for the entire khabîth property, and this khabîth property becomes your property in its full sense, it being permissible for you to use it, and you may add it to your calculation of nisâb. In case someone else is given this property, it is permissible for him to accept it. In this case it becomes his **mulk-i-khabîth**. However, unless the khabîth property is compensated for, you have no right to use it. You cannot give it to someone else. You cannot give it as alms to the poor, either. You cannot include it in the nisâb of zakât. Compensation means to return a similar commodity. If its like is not avaliable, the value that was current on the day when it was obtained is to be paid to the owners. Compensation should be made out of your halâl zakât property, not out of the mixture. It would be a worse sin to acquire mixed khabîth property in order to avoid paying zakât than to simply not pay zakât at all. If the owners are unknown, the unmixed amount, and if it is mixed altogether, all that khabîth property, is to be given as alms to the poor. For, it exists as harâm property in every part of this mixture. Even if harâm commodities purchased from several people are mixed together, all of them become one's own khabîth property. But it is wâjib to give them back to their original owners; if they are not known, then as alms to the poor. If it is wâjib to dispense some property as alms, its zakât cannot be paid. Even if any commodity or money acquired through **Fâsid Bey'**[1] is not mixed with one's own money that property becomes mulk-i-khabîth. It is written in the book, **Bezzâziyya**[2]: "If a person, while giving alms from mixed khabîth property (which it is wâjib to give as alms), makes an intention of paying zakât for his halâl property, he will have given both the zakât and the alms

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[1] Bey' means bartering, buying or selling. The business of buying and selling has to be done as prescribed by Islam. Fâsid bey' is a kind of purchase done in a way not justified by Islam. The business of buying and selling is explained in full detail in the twenty-ninth chapter.

[2] A book of fatwâ written by Ibn-ul-Bezzâz Muhammad bin Muhammad Kerderî 'rahmatullâhi ta'âlâ 'alaih', (d. 827 [1424 A.D.].)

simultaneously.” Hence, it is permissible to pay the zakât of one’s halâl property out of harâm property.

ZAKÂT OF CROPS — It is fard also to pay ’ushr. The zakât of production obtained from one’s land is termed **’Ushr**. Even a person in debt has to pay ’ushr.

Imâm-i-a’zam says: “When any kind of vegetable or fruit is obtained from the earth, regardless of its amount, it is fard to give one-tenth of it or its equivalent in gold or silver to poor Muslims.” When the produce is obtained from land which is irrigated by animal power, a waterwheel or machinery, one-twentieth of it is given. Whether one-tenth or one-twentieth, it should be given before deducting what is spent on animals, seeds, tools, fertilizer chemicals and workers. ’Ushr is not paid for produce that is less than one sâ’. Even if the owner of the land is a child, an insane person or a slave, its ’ushr is to be paid. The state takes the ’ushr by force from a person who will not pay his ’ushr. ’Ushr is not paid for the fruit and vegetable in the yard of one’s house or for firewood, grass or hay, no matter how abundant they are. For honey, [even if there has been an expenditure on such things as engineering outfits], for cotton, for tea, for tobacco, for fruit obtained from trees in fields, [such as olives, grapes], one-tenth is paid as ’ushr. There is no ’ushr for pitch, petroleum or salt. [See the second one of the four treasuries of the Beytulmâl later ahead.] It is harâm to eat the produce the ’ushr of which has not been paid. It is necessary to pay its ’ushr even after having eaten it.

Ibni ’Âbidîn[1] says: “The ’ushr of fruit and grain, according to Imâm-i-a’zam and Imâm-i-Zufer, becomes fard when they have been formed on the stem and while they are still secure from rotting off. Even if they are not ready for reaping, the ’ushr should be paid when they are ripe enough to utilize, to eat. According to Imâm-i-Abû Yûsuf, when they ripen it becomes fard (to pay ’ushr for them) before the harvest. And according to Imâm-i-Muhammad it becomes fard after the harvest, that is, after all of them have been reaped and gathered. It is permissible to pick some

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[1] Sayyid Muhammad Emîn bin ’Umar bin ’Abd-ul-’Azîz ‘rahmatullâhi ta’âlâ ’alaih’, (1198 [1784 A.D.] – 1252 [1836], Damascus,) wrote a book of five volumes as an annotation to the book **Durr-ul-mukhtâr**, by Alâuddîn Haskafî ‘rahmatullâhi ta’âlâ ’alaih’, (1021, Haskaf – 1088 [1677],) and entitled it **Radd-ul-muhtâr**. When title Ibni ’Âbidîn is mentioned, either that valuable scholar, Sayyid Muhammad Emîn, or his annotation, Radd-ul-muhtâr, is meant. Radd-ul-muhtâr is the most dependable book of Fiqh in the Hanafî Madhhab.

off their stems and eat them or to give them to someone else to eat before the harvest. But according to Imâm-i-a'zam their 'ushr also has to be paid, which is not necessary according to the two imâms. But they are included in the calculation, which is done to see if the produce is (at least) the amount of five wesks. If one picks them off after they have ripened, their 'ushr is still not necessary according to Imâm-i-Muhammad. After the completion of the harvest, the 'ushr of destroyed or stolen amount is not to be paid." The poor should calculate and pay their 'ushr according to the two imâms. Those who are rich should pay it according to Imâm-i-a'zam.

It is written in the two hundred and twenty-fifth page of the book **Imâd-ul-Islâm**[1]: "Whether from a cultivated field or from an orchard or vineyard, it is harâm to eat the produce before paying one-tenth of it to poor Muslims. If one measures the quantity one has taken out and eaten and then calculates and pays the 'ushr of what one has eaten, then what one has eaten becomes halâl.

If a person who has gathered ten bushels of wheat does not give one bushel (36 1/2 kg) of it to a poor Muslim, not only that one bushel but also all of the ten bushels will be harâm. If a person tills someone else's land and obtains crops without the latter's consent, of the produce he gets only the amount equal to his expense and capital becomes halâl for him, and the rest is harâm; he has to give the rest to the poor as alms."

According to Imâm-i-Yûsuf and Imâm-i-Muhammad, to pay the 'ushr, the produce obtained from the land has to be of the kind and quality that will last one year and its amount has to be more than five wesks. One wesk means a camel-load, which is a volume of sixty sa'. Sixty sa' is two hundred and fifty litres. Accordingly, the two imâms state that the nisâb of 'ushr is twelve hundred and fifty litres. But the fatwâ has been given in agreement with the ijtihâd of Imâm-i-a'zam.

Ibni 'Âbidîn states in the two hundred and fifty-fourth page of the third volume: "If the inhabitants of a city become Muslims voluntarily or if Muslims capture the city by force and one-fifth of the land is reserved and the remainder is dealt out to the soldiers or to other Muslims, such plots of land become property of those who take them, and it is fard to pay the 'ushr of the produce of this land. 'Ushr is not taken for land that has been captured by force and given to disbelievers or which has been taken by peaceful means

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[1] Turkish version of **'Umdat-ul-Islâm** rendered by 'Abd-ur-Rahmân bin Yûsuf.

and still belongs to disbelievers. **Kharâj** is taken for such land areas. ['Ushr and kharâj are spent for purposes different from each other.] Kharâj is taken for the lands of Iraq, Syria, and Egypt, with the exception of Basra." It is written in the fifty-second page of the second volume: "Even if the owner of a land of kharâj donates or sells it to a Muslim, still kharâj is to be paid from the produce." It is written in **Majmû'a-i-jadîda**: "It is permissible for a zimmî to donate his real estate to a pious foundation by stipulating that its rentals should be given to poor Muslims." And it is written in the two hundred and fifty-fifth page of the third volume of its commentary: "When a zimmî[1] dies his inheritors still pay the kharâj. If he has no inheritors the land left belongs to the Beytulmâl and the kharâj falls, that is, it is not paid. If the state sells this land, which is mîrî, or donates it as a waqf, the person (or foundation) who gets it pays 'ushr, not kharâj." The majority of Anatolian land has became land of 'ushr through this policy. It is also written so in the fiftieth page of the second volume. It is written in the forty-ninth page of the second volume: "If a person donates his own land of 'ushr, the person who tills the land gives the 'ushr." It is written in the fifty-fifth page: "If the state rents out the land belonging to the Beytulmâl, the rental taken each year counts for kharâj. 'Ushr is not taken in addition. For, 'ushr is not taken for land if kharâj is taken for it." If a person rents out his tenement of 'ushr, the owner gives the 'ushr of the produce according to Imâm-i-a'zam. The fatwâ is given in agreement with this at places where rentals are high. Accçording to the two imâms the tenant gives the 'ushr. The fatwâ is given accordingly at places where rental rates are low. No one but the president of the state can sell the land belonging to the Beytulmâl. If the owner of a tenement of kharâj becomes a Muslim or donates the tenement to a waqf, its kharâj must still be paid. If a tenement with 'ushr is bought by a zimmî, that is, a non-Muslim, the tenement becomes land of kharâj. It is written in the two hundred and sixty-fifth page of the third volume: "If the president of the state donates the kharâj to the Muslim who is the owner of the tenement, the owner uses it personally if he has due rights demandable from the Beytulmâl.[2] If he does not have those rights,

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[1] A non-Muslim who lives in a Muslim country.

[2] The Beyt-ul-mâl (or Bayt-ul-mâl) is the treasury of an Islamic government. On pages ahead there is detailed information about the Beyt-ul-mâl. By reading those pages, the readers will know what is meant by "people who have due rights demandable from the Beyt-ul-mâl."

he gives it to someone who has the rights. If the president donates the ’ushr it is not permissible. ’Ushr is not excusable by the state’s revocation. In that case the owner of the tenement has to pay his ’ushr to those who have due rights demandable from the Beytulmâl.”

It is written in the second volume: “Crops from land areas that are not subject to kharâj or ’ushr, such as mountains and forests, are to be counted as produces subject to ’ushr.” If one is sent some presents by a land owner who one knows has not paid their ’ushr, it is good for one to spare one-tenth of it, give it do the poor, and then consume the remainder.

One of the commentaries to the superseded **Land Laws**, which prescribed the management of the Beytulmâl, that is, the mîrî land areas, is a book printed in 1319 [hijrî], by Âtıf Bey, who was a teacher of the civil code in the school of political sciences. It is written in its introductory section:

If a country is conquered by war, one-fifth of the land belongs to the Beytulmâl. One of the following three cases may be applied to the rest:

1 - It is divided and distributed to the soldiers or to other Muslims. Such land areas become the property of these people. Such land is taxed with ’ushr, which is collected yearly.

2 - The land is left to the disbelievers. Such land is taxed with kharâj.

3 - The president of the state does not give the land to anyone, but gives it to the Beytulmâl. Such land is also called mîrî land. If the owner of land of ’ushr or of kharâj dies and if he has no heirs, the land belongs to the Beytulmâl. It becomes mîrî land. It will be sold or rented at a rate determined by the sultân (president of state). Its themen (price) or rental becomes kharâj, that is, it is put in the third part of Beytulmâl. Or, it is rented out to Muslim or non-Muslim countrymen by legal deed, a certain percentage of the produce being taken yearly as rent. The rent used to belong to the soldiers and officers. The soldiers who had the right to take the rents were called **Timarci**, and the officers were called **Za’îm**. The soldiers’ land was called **Timar**, the officers’ land was called **Ze’âmet**, and the generals’ land was termed **Khâs**. Abussu’ûd Efendi, the Muftiyy-us-saqaleyn, wrote in his fatwâs, which exist in the library of Nûr-i-Osmâniyye (in Istanbul): “One-tenth of the produce, which is yearly paid with the sultân’s order to the Timarcis by those who have rented the Beytulmâl’s mîrî land by

legal deed, has ordinarily been termed ’ushr; yet it is not ’ushr; it is rent.” Later most of the mîrî lands were donated or sold to the people by the State, in both of which cases it became land of ’ushr. Thus almost all of the lands in Asia Minor and Rumelia became land of ’ushr. As is seen, either one of the ’ushr and the kharâj should be paid for the produce of land. Some people say and write that the Anatolian land is not land of ’ushr. The fact, however, is that there is no mîrî land in our country. Everybody’s fields and gardens are their property, or they are tenants. It is fard for them to pay the ’ushr of its produce.

During the Ottoman times there were five kinds of land areas:

1 - Of those land areas that were the people’s property, very few were with kharâj and the great majority were with ’ushr. Land that was the people’s property had four categories. The first category comprised plots in a village or city and land areas adjacent to a village and no larger than half a dönüm (about 0.116 acres). They had been mîrî land formerly and had been sold to the people with the Caliph’s permission later. Or they were land areas with ’ushr or with kharâj. In the second category were those mîrî areas and fields that had been sold to the people with the Caliph’s permission. ’Ushr was paid from their income. The third category was those land areas with ’ushr and the fourth consisted of those with kharâj.

The owner of any of these four kinds of land could sell it. He could bequeath it, too. It would be divided and distributed to his inheritors as prescribed by the knowledge of Farâid (the branch of Islamic Science that deals with inheritance).[1] On the other hand, if a person had been using a land area in the category of mîrî because he had been given its legal deed and had been paying its rent; when this person died his inheritors could not divide it among themselves or sell it. He could not will this type of land to be sold or have his debts to be paid out of the money received for its sale. The land would not belong to his inheritors. It would not be included in the nisâb for Qurbân, either. Nor could it be sold. Only, it could be transferred to someone else in return for money with the permission of the owner of Timâr. A person who had rented the mîrî land could sow anything or let someone else use the land in return for rent. Any land area left uncultivated for three years would be rented out to someone else. The tenant farmer could not plant trees or vines on the mîrî land without

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[1] Please see the twenty-third chapter.

permission. He could not build a house there without permission, either. Nor could a dead person be buried there. The mîrî land would not become the property of the person who had rented it by legal deed. Such people were only tenants. It was customary that when the tenant farmer died the land would be rented to his inheritor. This was not the inheritor's right prescribed by the Sharî'a, but was a gift by the State. Please see the final part of the twenty-third chapter.

2 - Beytulmâl's land areas, i.e. mîrî land. Most of the country's land was so and was rented out. Later most of such land areas were sold to the people, and became land of 'ushr.

3 - Areas of Waqf, whose produce was subject to 'ushr.

4 - Open spaces of ground, fields and the like that were made public.

5 - Areas that belonged to neither the Beytulmâl nor anyone else, such as mountains and forests; Muslims who cultivated them would give the 'ushr of the produce.

ZAKÂT OF ANIMALS — It is written in the book **Mawqûfât**: "If those animals that graze in the fields free of charge for more than half of the year are intended for breeding [or for milk], they are termed **Sâima** animals. One year after the number of the sâima animals has reached the amount of nisâb their zakât is to be paid. If they are intended for wool, for burden or for transportation, they are not termed sâima and zakât is not necessary." Sâima animals of different families, such as camels and cattle, are not added to one another or to other commercial goods.

ZAKÂT OF CAMELS — Zakât is not to be paid for four camels. The nisâb for camels is five. Five camels are the equivalent of two hundred dirhams of silver. A person who has five camels gives one sheep. This means that one sheep is five dirhams [seventeen grams] of silver. One sheep is to be given for up to nine (inclusive) camels. A person who has ten to fourteen (inclusive) camels gives two sheep. Three sheep are to be given for fifteen to nineteen (inclusive) camels, and four for twenty to twenty-four. For twenty-five to thirty-five camels a young female camel that is in its second year is given. For thirty-six to forty-five camels a young female camel in its third year is given. For forty-six to sixty camels a female camel that is in its fourth year and which can already carry a burden is given. A five-year-old camel is given for sixty-one to seventy-five camels, two three-year-old camels for seventy-six to ninety camels, and two four year-old camels for ninety-one to

hundred and twenty. A sheep also is given for each five camels over a hundred and twenty. But when the number becomes a hundred and forty-five, a two-year-old female camel is added instead of the sheep. Three four-year-old camels are given for a hundred and fifty camels. A sheep also is given for each five additional camels. But a person who has a hundred and seventy-five to a hundred and eighty-five camels adds a two-year-old female camel instead of the sheep. For a hundred and eighty-six to a hundred and ninety-five camels three four-year-old camels and one three-year-old camel are given. For a hundred and ninety-six to two hundred camels four four-year-old camels are given. Male camels cannot be given for zakât. A person who does not have any female camels to give, gives the value of the male camels in gold or silver. Zakât is not given for a young camel that has not completed its first year. A person who has more than two hundred camels repeats the procedure between a hundred-and-fifty and two hundred for every fifty camels.

ZAKÂT OF CATTLE — The nisâb for cattle is thirty. A person who has fewer than thirty heads of cattle does not pay zakât for them. For thirty heads one male or female calf over one year of age is given. It is the same up to thirty-nine (inclusive) heads. For forty to fifty-nine heads one male or female calf immediately over two years of age is given. For sixty to sixty-nine heads two calves over one year of age are given. One calf over two years of age and one over one year of age are given for seventy heads. This calculation is done for every ten heads over seventy heads. One one-year-old calf is added for every thirty heads and a two-year-old calf is added for every forty cattles. When the number reaches eighty, two two-year-old calves are added. The zakât of water buffalos is the same as the zakât of cattle.

ZAKÂT OF SHEEP — The nisâb for sheep is forty. A person who has fewer than forty sheep does not pay zakât for them. A person who has forty to a hundred and twenty sheep gives only one sheep. Two sheep are given for a hundred and twenty-one to two hundred sheep. Three sheep are given for two hundred and one to four hundred sheep. Four sheep are given for four hundred sheep, and one sheep is added for every additional hundred sheep. The zakât of goats is the same as that of sheep, whether they are male or female. Zakât is not paid for lambs that have not completed their first year. But if one has sheep also, one includes the lambs into the calculation. So is the case with the calves of camels and cattle. A lamb is never given as zakât.

ZAKÂT OF HORSES — Their zakât is necessary when the male and female horses are fed together for breeding in the fields. Zakât is not necessary if they are intended for transportation or for carrying things. Zakât is not fard for a person who has only male horses [stallions]. For, he cannot breed them. If they are kept for commercial purposes, one pays their zakât as commercial property. Zakât is not paid for mules and asses not intended for trade, even if there are a legion of them.

There is not a nisâb for horses. One mithqâl of gold is given for each horse. One may as well calculate their value and give one-fortieth of their value in gold if their value equals the amount of nisâb in gold. Also for camels, cattle and sheep that are given as zakât, their equivalent in gold can be given.

WHO IS ZAKÂT PAID TO? — Zakât is paid only to the Muslims existing in the seven groups written below. The eighth group was **muallafat-ul-qulûb**. That is, the harsh enemies of Islam used to be paid zakât so that Muslims could be spared from their wickedness. But since the era of Abû Bekr 'radiy-Allâhu 'anh', there has been no reason to pay zakât to this group.

1 - **Faqîr** (The poor): A person who has property more than his subsistence but less than the amount of nisâb is termed faqîr. Every poor civil servant who supports his household with difficulty, no matter how much his salary is, can receive zakât if he has îmân; it is not necessary for him to pay the fitra or to perform the Qurbân, [See chapter 4 on Qurbân].

2 - **Miskîn** (The needy): A Muslim who has no more than one day's subsistence is termed miskîn. Hamîdullah, who has been misrepresented as a man of religion, says in his book "Introduction to Islam" that miskîn means non-Muslim countryman. This view of his is wrong. It means a reformation in the religion. It is not permissible to pay zakât to a non-Muslim.

3 - **'Âmil** (Zakât collectors): This term is used for the **Sâ'î**, who collects zakâts of the beasts of Sâima and the produce of the earth, and the **'Âshir**, who lives outside of town and collects zakât of commercial property from the tradesmen he meets; they are paid zakât in return for their work, even if they are rich.

4 - **Mukâteb** (Indentured servant): The slave who has been bought by his master and who will be manumitted when he pays his debt.

5 - **Munqati'**: Those who are on the way of jihâd or hajj and who are in need. It is written in **Durr-ul-mukhtâr** that also those who

learn and teach religious knowledge can receive zakât even if they are rich, since they do not have time to work and earn money. In explaining this, Ibni 'Âbidîn says that a hadîth-i-sherîf written in **Jâmi'-ul-fatâwâ**[1] states: **"Even if a person who is learning knowledge has forty years' subsistence, it is permissible to pay him zakât."**

6 - **Medyûn** (Insolvent debtor): Muslims who are in debt and cannot pay their debts.

7 - **Ibn-us-sebîl** (The wayfarer): A person who is rich in his homeland but who has no property left with him in the location where he lives now or a person who has lent large amounts of money to others but cannot get them and therefore is in need.

Zakât should be paid to all or one of these people. A dead person's shroud cannot be bought with the money of zakât. A dead person's debt cannot be paid with it, either. Nor can it be spent on building mosques, on jihâd or on hajj. A dhimmî, i.e., a non-Muslim countryman cannot be paid zakât. A dhimmî can be given fitra, votive offerings, alms, or gifts. Zakât cannot be paid to a rich man's slave or small son. If a rich person's adolescent child or wife or father or small orphaned child is poor, others can pay zakât to him or her. If the small child is discreet, i.e. if he can distinguish money from other things and if it cannot be taken from him by deceit, zakât is paid to him. If he is not wise enough, it is necessary to pay it to his father, to his guardian, or, of his relatives or other people, to the person who looks after him. Zakât is not paid to descendants of our Prophet or of his paternal uncles who will come to the world until Doomsday. For, one-fifth of the ghanîma taken away from the enemy in every combat is their due. Ahmad Tahâwî says in his commentary to the book **Emâlî**: "Imâm-i-a'zam said that since they are not given their dues from the ghanîma any more it is permissible to pay them zakât and alms." It is written also in **Durr-i-Yektâ** that it is permissible.

One cannot pay zakât to one's parents, to any of one's grandfathers or grandmothers, or to one's own children or grandchildren. Nor can one pay them alms that are wâjib, such as fitra, votive offerings and keffâret. But one can give them the supererogatory alms if they are poor. One cannot pay zakât to one's wife, either. Imâm-i-a'zam said that a woman could not pay zakât to her poor husband, either. But the Imâmeyn said that she

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[1] Also named **Jâmi'ul-kebîr**, that book was written by Abul Qâsim-i-Semerqandî 'rahmatullâhi ta'âlâ 'alaih', (d. 556 [1161 A.D.].)

could pay zakât to her poor husband. It is permissible to pay zakât to one's poor daughter-in-law, son-in-law, mother-in-law, father-in-law or stepchild. It is permissible to give alms or gifts to a dhimmî.

If, after inquiring and finding out that a person can be paid zakât and after paying him or her zakât, one learns that he or she is rich or a dhimmî disbeliever or one's mother, father, child or wife, it will be all right. That is, it will be accepted. It is written in **Nehr-ul-Fâiq**: "If the person to be paid zakât lives among poor people and is like them, or if he says that he is poor and accepts the zakât, there is no need to search to see if he has the right to receive zakât. When one pays him zakât one has paid it as if one had searched and asked about him."

Abdulqâdir Ghazzî 'rahmatullâhi ta'âlâ 'alaih' says in his **Annotation to Eshbâh**: "As Debbûsî[1] conveys in **Multeqit**, it is permissible for one to give an orphan for whom one is guardian clothes and food as zakât. For, the orphan is now one of his household, children." The orphan's guardian has the right to buy necessary things with the property of zakât and give them to it. If the orphan is discreet enough to understand buying and selling, it is necessary to hand the food and clothes to the child.

It is mustahab to give the poor at least enough to meet his one day's need. It is makrûh to give a poor person who is not in debt and who does not have a wife and children so much zakât as to equal the amount of nisâb or so much as to make his property equal the nisâb. It is permissible to give a poor person who has a wife and children so much zakât that each of them will not get as much as the amount of nisâb when it is divided and distributed to them. It yields more thawâb to pay zakât to one's poor close relatives, such as brothers, sisters, uncles and aunts. If one gives it to others while one's close relations are in need, one does not get blessings **[Imdâd]**. If it has been judged by a court of law that one has to pay means of subsistence to one's zî-rahm mahram relative,[2] it is permissible for one to pay the means of subsistence from one's property of zakât with the intention of zakât. Though it is makrûh to send zakât to another city, it is permissible if one sends it to one's relative or if one cannot find poor Muslims in one's city. It is written in a fatwâ of **Bezzâziyya** that paying zakât to a person in debt is better than paying it to a poor one. It is

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[1] Abû Zayd 'Abdullah bin 'Umar of Debbûs, Samarkand 'rahmatullâhi ta'âlâ 'alaih', (d. 432 [1039 A.D.], Bukhârâ.)

[2] Kinds of close relatives are explained in detail in the twelfth chapter.

written in **Durr-i-Yektâ** that a person who wastes his property and who uses it in harâm ways should not be paid zakât.

A rich person's deputy pays zakât to the person advised by the rich person. He cannot pay it to someone else. He compensates for it if he pays it to someone else or loses it. So is the case with a will. It is given to the poor person specified. If the rich person tells his deputy that he may give it to anyone he likes, he can give it even to his children or wife, if they are poor. If he is poor, he can take it to himself. But the case is not so with the nazr. The deputy may as well give it to someone other than the person specified by the owner of the votive offering. While explaining this, Ibni 'Âbidîn says at the beginning of the twelfth page: "It is permissible for the deputy to give the poor his own gold and silver instead of the gold and silver given to him by the rich person and use the rich person's gold and silver at his own discretion. But it is not permissible for him to use the rich person's money first and then pay zakât from his own money, in which case he will have given alms for himself. Later he will have to pay the money back to the rich person. So is the case with the deputy who uses the money he has been given for paying some alimony or buying something or paying some debt. As is seen, it is not compulsory to pay zakât by reserving it from one's own property. The rich person's deputy may also make someone else deputy without (the rich person's) permission."

Having reserved the (sum calculated as the) zakât does not mean having paid it. If the zakât reserved is lost while one or one's deputy is keeping it, one has to set aside the same amount again and dispense it. If the deputy loses it he pays for it. It is not necessary to pay zakât anew which has been lost by the **'Âmil** or by the poor person's deputy. The deputy shall pay it to the poor. **'Âmil** means both **Sâ'î** and **'Âshir**.

In order to wrap a dead person in a shroud, to build a mosque, or to help those who perform jihâd, poor people (who want to take zakât), as we have explained in our discourse on zakât of paper money, may appoint a trustworthy person their deputy to take their zakât on their behalf and deliver it to the place they have ordered. The deputy takes zakât on behalf of the poor, and delivers it to the place ordered by the poor. The same is done to pay zakât to charitable institutions. It is not necessary for the deputy to say something as he takes zakât or as he delivers it to the place ordered. But the poor people who depute him should be Muslims who can be paid zakât. As we have explained above, the same is done to pay zakât in paper money.

A rich person who fails to get back the money or property he lent to others, or who possesses bonds the payment time of which has not arrived, may accept as much zakât as he needs, if he cannot find anyone to lend him money without a rate of interest. When he takes possession of his property he does not dispense the zakât he received to the poor. However, a poor person can accept more zakât than he needs, provided that it will be less than the amount of nisâb. The zakât of gold, silver and commercial property must be handed to the poor or to the poor person's deputy. If zakât (intended to be) paid to other institutions is not handed to the Muslim poor (first), zakât will not have been paid.

If a person has a day's food or if he is healthy enough to work or do some business though he does not have a day's food, it is harâm for him to ask for food and drink or to beg for money to buy them. Also, it is harâm to give him what he wants though you know about his welfare. It is permissible to give without being asked or to take what is given. It is permissible for that person to ask for his needs other than food, such as clothing, household goods and money to pay his rents. It is permissible for a hungry or invalid person to ask for food even if he has a house to live in. If a person who has a day's food or who is healthy enough to work though he does not have a day's food is studying [or teaching] knowledge, it is also permissible for him to ask for food. Please see the eighth chapter of the sixth fascicle of **Endless Bliss**. Alms should not be given to a person who spends his money on the harâm or who wastes his money.

THE BEYTULMÂL — The 'ushr and zakât of animals that graze in the fields are paid to the poor, but it is permissible also to deliver them to the Beytulmâl. If a person who has taken possession of something to be given to the Beytulmâl has an allotment from the Beytulmâl, he uses it himself. If he does not have any allotments, he gives it to a Muslim who has an allotment from the Beytulmâl. He does not give it to the Beytulmâl. It is written on the fifty-sixth page of the second volume of Ibni 'Âbidîn: "If people who have allotments from the Beytulmâl take possession of the Beytulmâl's money, such as the poor, collectors of zakât, scholars, teachers, preachers, students of religious knowledge, debtors, Ahl-i-beyt-i-nebewî, that is, sayyids and sherîfs, soldiers, it is permissible for them to retain as much of it as is allotted to them."

The author of the fatwâ of **Bezzâziyya** 'rahmatullâhi ta'âlâ 'alaih', quoting from Halwânî, states: "If the owner of something

entrusted to a person dies, that person gives it to its owner's inheritors. If he has no inheritors, he gives it to the Beytulmâl. If it will be lost in case it is given to the Beytulmâl, he uses it himself or gives it to those who have allotments from the Beytulmâl."

Zakât means society's guaranteeing the poor's living and needs. If any Muslim dies of hunger in any nook of a city and if any of the rich people in the city has a little zakât left unpaid, he (the rich one) becomes his (the poor one's) murderer. Zakât is an insurance policy among Muslims. Islam has not entrusted this insurance, which is called **Beyt-ul-mâl**, to individuals, to opportunists, to those who think of their own advantages only, but has committed it to the State authority. This insurance is unlike other insurance policies. It does not demand money from the poor, but collects it from the rich. In the world, there will be an increase in the property of the rich people who pay zakât. And in the Hereafter they will be given plenty of blessings. Islam's insurance program helps all the poor. When the chief of a family dies, it makes allowances to his poor family, and makes everyone happy. Islam has established such a social security system through zakât.

Ibni 'Âbidîn 'rahmatullâhi 'alaih' states: "Two of the four types of property of zakât, that is, the animals of zakât and the produce of the earth are termed **Emwâl-i-zâhira**. The Caliph's officials come and collect them. These officials are called **Sâ'î**. The State reserves this property collected [and also zakât of Emwâl-i-bâtina, which the officials called **'Âshir** collect from travelling tradesmen] in the Beytulmâl, and spends them on all seven groups. Of the kinds of property of zakât, gold, silver and commercial property are called **Emwâl-i-bâtina**. It is not permissible to ask their owner about their amounts. Their owner himself pays their zakât to anyone he likes of the seven groups. The State cannot demand again zakâts that have been paid in this way. If it is uncovered that the rich in a city never pay their zakâts, the State can collect zakâts of their Emwâl-i-bâtina." It is written in **Diyâ-ul-ma'nawî**[1] and in **Îdhâh**: "The State cannot collect five things; zakât of Emwâl-i-bâtina, the fitra, the qurbân, the nazr, and the kaffârat."

[Recently there has been an increase in the number of those who cannot realise the greatness of the savants of the Ahl-i-sunna 'rahmatullâhi ta'âlâ 'alaihim ajma'în'. A savant, not an ignorant person, knows a savant. Those ignorant people who pass for men

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[1] Written by **Abu-l-Baqâ** 'rahmatullâhi ta'âlâ 'alaih', (789-854 [1450 A.D.].)

of religion think of themselves as savants. They introduce one another as Islamic savants to the people. They dislike the ijtihâds of the Selef-i-sâlihîn and say, “We believe in the Qur’ân and the ahâdith only.” They infer some new meanings suitable with their short sights and sterile thoughts from the Qur’ân al-kerîm and hadîth-i-sherîfs. They slander the superiors of the second century (of Islam) and our religious imâms, who are praised in hadîth-i-sherîfs. They strive to cast aspersions on their valuable books. The books of such lâ-madhhabî people as Ibni Taymiyya, Mawdûdî, Sayyid Qutb, Hamîdullah, Abd-us-salâm, a physicist, and Ahmad Didad spread information that is disagreeable with that which has been communicated unanimously by Islamic savants. For example, it is written in the books “World’s Peace and Islam” and “Introduction to Islam” that, “Zakât is a tax paid to the State. The money which the rich give to those poor people they like is not called zakât. Zakât is paid to the State only. The State can give it to poor disbelievers as well. For, **miskîn** means the poor ones among disbelievers.” It has been explained in detail in the book **Answer to an Enemy of Islam** that the lâ-madhhabî people are on the wrong way.

According to some savants, when a Muslim but cruel sultan imposes a tax on the **Emwâl-i-zâhira** it is acceptable if one pays it with the intention of zakât. But it does not stand for zakât if the sultan takes the tax from the **Emwal-i-bâtinâ,** even if one intends for zakât, nor does any kind of property taken by those sultans who are disbelievers or renegades stand for zakât. In this case one has to pay the zakât, too.

There are four distinct kinds of goods in the Beytulmâl:

1 - The zakâts that are taken for animals and produce of the earth and those which the **’Âshir** takes only from the Muslim tradesmen he meets on their way, are given to the seven groups mentioned above.

2 - One-fifth of the ghanîma and of the metals extracted from the earth, is given to orphans, to miskîns and to those travellers who have no money left on their way. In all these three groups, those who are **Benî Hâshim** and **Benî Muttalib**[1] have priority.

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[1] **Hâshim** was the paternal great grandfather of the Messenger of Allah ‘sall-Allâhu ’alaihi wa sallam’. Therefore, Rasûlullah’s and his uncles’ descendants are called **Benî Hâshim,** i.e. Sons of Hâshim, or **Hâshimîs** (Hâshimites). Descendants of Rasûlullah’s paternal great granduncle are called **Benî Muttalib,** i.e. Sons of Muttalib.

Nothing is taken for petroleum or other liquids of its kind, for oxides, for ores that do not melt in fire, such as salts, or for things that are obtained from the sea.

3 - The kharâj and the jizya, which are taken from non-Muslims, and goods that the 'Âshir has taken from them. They are spent on public needs such as roads, bridges, inns, schools, law courts, and on national defence. They are given to those Muslims who mount guard over the frontiers and over the roads within the country, to the construction and maintenance of bridges, mosques, ponds, canals, to imâms, muezzins, to those who serve pious foundations, to those who teach and study Islamic knowledge, that is, Islam and science, to qâdîs, muftîs and preachers, to those who work so that Islam and Muslims will survive and spread. Even if these people are rich, they are given a share suitable with the customs and current prices in return for their work and service. [There is detailed information about those who have allotments from the Beytulmâl in the chapter about disasters incurred by the hand in **Hadîqa**.] When they die, their children are preferred to others if they have the qualifications. If their children are ignorant and sinful, they are not appointed to their fathers' place. It is written in **Eshbâh**: "If the Sultan appoints an ignorant person as a teacher, khatîb [speaker of khutba] or preacher, it will not be sahîh. He will have perpetrated cruelty."

4 - Property left behind by rich people who do not have any inheritors and the **luqata**, that is, things found unattended and of which no one claims ownership; they are spent on hospitals and on funerals of the poor, and given to poor people who cannot work and who have no one to take care of them. It is the State's task to make these four groups of goods reach the allotted people.

The State appoints officials called **'Âshir** to work out of town. These officials protect tradesmen against highwaymen and all kinds of danger. The 'Âshir asks the tradesman he meets on the road the amount of his property. If it is the amount of nisâb and if he has had it for one year and if it is commercial property, of any kind of goods, he takes one-fortieth from a Muslim, one-twentieth from a zimmî, and one-tenth from a harbî. The property that is taken from the Muslim stands for his zakât. Zakât is not taken from a person who says that he has paid his zakât in the city or that he has not yet had it for one year. Nothing is taken from tradesmen from a country of disbelievers' which does not take anything from Muslim tradesmen. If it is known how much they take, the same amount is taken from them. [This implies that those who work in

countries of disbelievers should pay taxes to the related governments.]

It is written in the fifty-seventh page of the second volume of **Ibni 'Âbidîn** 'rahmatullâhi ta'âlâ 'alaih': "If there are no more goods left in one of the four treasury departments of the Beytulmâl, some of the property in the other three departments is transferred on loan to this department and given to those who have allotments from this department." By the same token, when there is no property of kharâj and jizya left in the third department men of religion and those who perform jihâd are paid from the property of zakât and 'ushr in the first department. At a time when enemies of religion attack by writing and by every sort of propaganda to demolish Islam and to mislead the Muslims' children out of Islam, writers, societies, courses of the Qur'ân, print-houses, books and newpapers who answer them and who protect Muslims against their deceit are all champions, heroes of Islam. It is fard to give these champions, who protect Islam and Muslims in such a cold war, from the property of 'ushr and zakât in the Beytulmâl. The Sultân's abrogating the 'ushr does not absolve the Muslims from (paying) the 'ushr. It is fard for them to pay the 'ushr themselves. They should give it to those mujâhids (above-mentioned champions of Islam). Thus they will both perform the fard and attain the thawâb of jihâd.

It is written in the two hundred and forty-ninth page of the fifth volume of **Ibni 'Âbidîn** 'rahmatullâhi ta'âlâ 'alaih': "If the property in the Beytulmâl has not been collected in a way fair and halâl, if it has been taken away by cruelty, it is fard to give the property that has been taken unjustly back to its owners. It is not given to those who have allotments from the Beytulmâl. It is harâm for them to accept it. If the owners are not known, the property is put in the fourth department of the Beytulmâl, and given to those who have allotments from that department."

THOSE WHO DO NOT PAY ZAKÂT — The author of **Riyâd-un-nâsihîn** 'rahmatullâhi ta'âlâ 'alaih' says that Hadrat Alî, the Emîrulmu'mînîn 'kerrem-Allâhu wejheh', says: Rasûlullah declared in his farewell hajj: **"Pay zakât of your property! Be it known that those who do not pay their zakât do not have namâz, fast, hajj, jihâd, or îmân,"** which means to say that if a person does not know it as a duty to pay zakât, does not believe that it is fard, is not sorry for not paying it, and does not know that he is sinful, then he becomes a disbeliever. If a person does not pay zakât for years, his debts of zakât pool together and cover all his property.

He thinks his property belongs to him; it does not even occur to him that Muslims have rightful shares in that property. His heart never feels sorry. He has clasped the property so tightly. Such people are known as Muslims. But very few of them pass away with îmân. Paying zakât is commanded together with namâz at thirty-two places in the Qur'ân al-kerîm. The thirty-fourth âyat-i-kerîma of Tawba sûra declares about such people: **"Give the news of very bitter torment to those who save their property and money, but do not pay their zakât to the poor among the Muslims!"** The following âyat-i-kerîma informs us of this torment as follows: **"Property and money for which zakât is not paid will be heated in Hell-fire and will be pressed on the foreheads, flanks and backs of their owners as if being stamped with a seal."**

O thou, the arrogant rich! Do not let the ephemeral property and money of this world fool thee! Before thee they belonged to others. And after thee they will belong to others again. Think of the severe torment of Hell! That property from which you have not reserved and paid zakât and that wheat for which you have not paid 'ushr are in actual fact venoms. Allâhu ta'âlâ is the real owner of the property. The rich are like His representatives and officials and the poor are, as it were, His household and kinsfolk. Allah's representatives have to give His debt to the poor. A person who does the tiniest favour will get its reward. A hadîth-i-sherîf states: **"Allâhu ta'âlâ will certainly reward the good-doers."** The ninth âyat of Hashr Sûra gives glad tidings: **"He who pays his zakât will certainly be saved."** The hundred and eightieth âyat of 'Imrân sûra declares: **"Those who do not pay zakât of the property which has been bestowed upon them by Allâhu ta'âlâ think that they are doing well and that they will remain rich. On the contrary, they are harming themselves. Their property will be a means of torment in Hell; in a serpent's guise, it will coil around their necks and bite them from head to foot."** It is written so in the tafsîrs of **al-Basît** and **Wâsît**[1]. Those rich people who believe in the Hereafter and torment in Hell should pay zakât of their property and 'ushr of their crops and fruit and thus escape the torment. A hadîth-i-sherîf declares: **"Protect your property against harm by paying zakât."** The author of **Tafsîr-i-mughnî** 'rahmatullâhi ta'âlâ 'alaih' says: "The Qur'ân al-kerîm integrates three things into three other

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[1] Both these books, and also a third one, Wejîz, were written by Abul Hasan Alî Bin Ahmad Wâhidî 'rahmatullâhi ta'âlâ 'alaih', (d. 468 [1075 A.D.], Nishâpûr.)

things. If the former of each pair is not done the latter will not be acceptable: unless one obeys the Prophet 'sall Allâhu ta'âlâ 'alaihi wa sallam', one will not have obeyed Allâhu ta'âlâ; unless one thanks one's parents one will not have thanked Allâhu ta'âlâ; unless one pays zakât of one's property, one's namâz will not be accepted." O you who have become inebriated with the wine of oblivion! How long will you go on running after the world's comfort and pleasure? Until when will you go on wasting this valuable life amassing property paying no regard to whether it comes through ways that Islam calls harâm or through what it declares to be halâl? You ignore the commands and prohibitions of Islam! Think of the time when Azrâîl ''alaihi-s-salâm' will come and take away your soul by force, when the lion of death will seize you with its paw, when the throes of death will attack you, when the devil will pique you in order to steal your îmân, when your acquaintances will offer condolences to your children, saying, "We are so sorry about his death. May you be safe!" Do you never apprehend the time when the sad voice of separation will reach you and they will say, "You have done nothing good for us, but have always done what we dislike. And we in turn will do to you as you have done to us."?

Only think; what answers have you prepared for the questions in the grave and in the Hereafter? What pretexts will you profess to Allâhu ta'âlâ's reproaches? Pity yourself! You will be questioned, and you have no answer to give. If you go into Hell you cannot endure its fire. Do so much good to yourself and to others that when others do good people will think you did it. Do not harm yourself or others so that when someone does something harmful they will not think you did it.

A hadîth-i-sherîf in **Sahîh-i-Muslim** states: **"O Adam's son! You keep saying, 'My property, my property.' What is yours from that property is what you eat up, what you wear out, and what you cause to survive eternally by giving it away for Allah's sake."** If you love your property, then why are you going away leaving it to your enemy? Do not part with your beloved one; take it with you! If you cannot give it all, then at least suppose you are one of your inheritors and mail your share to the Hereafter. If you canot give this, either, then at least pay your zakât and thus escape the torment! An epigram: Khwâja Abdullah-i-Ansârî, the great master from Hirat, stated: "If you love your property, spend it properly so that it will be your eternal friend! If you do not love it, eat it up so that it will cease to exist!"

A story: Ferîdeddîn-i-Attâr narrates in his book **Tedhkira-tul-Awliyâ**: “Juneyd-i-Baghdâdî was seven years old, when one day he came back from school and saw his father weeping. When he asked the reason his father said, ‘Today I sent your uncle Sirrî Sakatî a few silver coins as my zakât, but he refused them. Now I am weeping because I realize that I have wasted my valuable life for these silver coins which men of Allah do not like but refuse.’ ‘Give the money to me, daddy, let me take it,’ said Juneyd, and went off to his (maternal) uncle’s place with the money. He knocked at the door and when his uncle asked who he was he said, ‘It’s me, Juneyd, uncle. Open the door and take these silver coins which are my father’s zakât!’ When his uncle said that he would not take them he said, ‘Take them for the sake of Allâhu ta’âlâ, who has done justice by commanding my father and been so kind by giving you freedom!’ And when his uncle wanted to know what Allâhu ta’âlâ had commanded his father and how He had been kind to him, Juneyd said, ‘He has done justice by making my father rich and by commanding him to pay zakât. And He has been so kind by making you poor and giving you a choice between accepting and refusing it.’ Sirrî liked his way with words and said, ‘Sonny! Before accepting the silver coins, I have accepted you.’ He opened the door and took the money.” Here we end our translation from **Riyâd-un-nâsihîn.**

2 – FASTING IN RAMADÂN

The fourth of the five principles of Islam is to fast every day in the blessed month of Ramadân. The fast became fard on the tenth day of the month of Sha'bân eighteen months after the Hegira and a month before the Ghazâ (Holy War) of Bedr. Ramadân means to burn. Sins of those who fast and beg Allâhu ta'âlâ for forgiveness in this month, will burn and perish.

It is written in the book **Riyâd-un-nâsihîn** that Hadrat Abû Hureyra 'radiy-Allâhu 'anh' stated in the book **Bukhârî**[1]: Rasûlullah 'sall-Allâhu alaihi wa sallam' declared, **"When the month of Ramadân comes the gates of Paradise are opened and the gates of Hell are closed, and the devils are tied."** Imâm-ul-aimma Muhammad bin Is'haq bin Huzeyma writes that Hadrat Selmân-i-Fârisî 'radiy-Allâhu 'anh' narrated that Rasûlullah 'sall-Allâhu 'alaihi wa sallam' had declared in his khutba on the last day of the month of Sha'bân: **"O Muslims! Such a great month is about to overshadow you that one night** [Qadr night] **in this month is more beneficial than a thousand months. Allâhu ta'âlâ has commanded fasting daily during this month. Also, it is a sunna to perform the namâz of tarâwih at nights during this month. Doing a small favour for Allah's sake during this month is like doing the fard in other months. Doing the fard in this month is like doing seventy fards in other months. This month is the month of patience. The place where the patient person will go is Paradise. This month is the month of getting along well. There is an increase in the subsistence of Believers during this month. If a person gives iftâr to a fasting person in this month his sins will be forgiven. Allâhu ta'âlâ will manumit him from Hell-fire. And he will be given as many blessings as has that fasting person."** The Sahâba said, "O Rasûlallah! Each of us is not so rich as to give the iftâr to a fasting person or to give him a whole meal. The Messenger ''alaihi-s-salâm' declared: **"The blessings will be given even to a person who gives a date as the iftâr or who provides a little water to break the fast or who offers a little milk. This month is such a month that it has compassion in its early days, pardon and forgiveness in the middle, and liberation from Hell in the final days. Allâhu ta'âlâ will forgive and rescue from Hell-fire those**

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[1] Written by Bukhârî Muhammad bin Ismâ'îl 'rahmatullâhi ta'âlâ 'alaih', (194 [810 A.D.], Bukhârâ – 256 [870], Semerqand.) Originally entitled **Jâmi'i sahîh**, it is one of the two greatest books of hadîth-i-sherîfs.

[patrons, chiefs, commanders and directors] **who facilitate the duties of** [workers, civil servants, soldiers, and students]. **Do four things very often in this month! Two of them Allâhu ta'âlâ loves very much. They are to say the Kalima-i-Shahâda and to say the istighfâr.**[1] **And the other two you have to do at all times. They are to ask for Paradise from Allâhu ta'âlâ and to trust yourself to Allâhu ta'âlâ to be protected from Hell. A person who gives water to a fasting person during this month will never be in need of water on the Rising Day."**

A hadîth-i-sherîf which exists in **Sahîh-i-Bukhârî** declares: **"If a person knows it as fard and as a duty to fast in the month of Ramadân and if he expects its thawâb from Allâhu ta'âlâ, his past sins will be pardonned."** That means to say that it is necessary to believe that fasting is Allah's command and to expect blessings for it. It is a condition not to complain that the days are long or that it is difficult to fast. One should deem it good luck and a great fortune to fast with difficulty among people who do not fast.

It is declared in a hadîth-i-sherîf, which is quoted from Jâbir ibn Abdullah 'radiy-Allâhu ta'âlâ 'anh' by Abdul'azîm Munzirî, who was a hâfiz [savant of hadîth], in his book **Etterghîb wetterhîb,** and by hâfiz Ahmad Bayhakî in his book **Sunan: "In Ramadân-i-sherîf Allâhu ta'âlâ bestows five gifts on my Umma, which He has not given to any other Prophet:**

1 - The first night of Ramadân Allâhu ta'âlâ regards the Believers with Compassion. He never torments a born slave of His whom He regards with Compassion.

2 - At the time of iftâr the fasting person's breath smells to Allâhu ta'âlâ more fragrant than any scent.

3 - During Ramadân angels pray day and night so that those who fast will be forgiven for their sins.

4 - In Ramadân Allâhu ta'âlâ allots a place in Paradise to give to those who fast.

5 - On the last day of Ramadân-i-sherîf He forgives the sins of all the Believers who have fasted."

Hadrat Imâm-i-Rabbânî 'quddisa sirruh' states in the forty-

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[1] The istighfâr is a short invocation said for forgiveness of sins, for protection against disasters, harms and dangers, and for the acceptance of acts of worship. It is as follows: "**Estaghfirullah al 'azîm al kerîm al-ledhî lâ illâha illâ Anta Huw-al Hayy al Qayyûma wa atubu ileyh**."

fifth letter of the first volume of Maktûbât: “The thawâb given for all nâfila worships, such as supererogatory namâz, dhikr, and alms that are performed during the month of Ramadân-i-sherîf, is like that which is given for the fard worships performed during other months. One fard performed in this month is like seventy fard performed in other months. A person who serves (the meal called) iftâr to a fasting person will be forgiven his sins. He will be freed from Hell. Also, he will be given as many blessings as the fasting person is given, while the blessings of the fasting person will not decrease at all. Also, superiors who make things easier in this month so that people under their command can fast conveniently, will be forgiven their sins. They will be freed from Hell. During the month of Ramadân-i-sherîf Rasûlullah would manumit slaves and give whatever he was asked for. Those who perform worships and good deeds during this month are given the blessings for performing them all the year round. He who disrespects this month and commits sins in it spends the whole year committing sins. One must deem this month a good opportunity. One must perform as many worships as one can. One must perform the deeds that Allâhu ta’âlâ likes. One must take this month as an opportunity to earn the Hereafter. The Qur’ân al-kerîm was revealed during Ramadân. The night of Qadr[1] is in this month. It is sunna to make the iftâr [to break fast] with dates in Ramadân-i-sherîf. Some important sunnats during Ramadân are to say the prayer **(Dhehebezzama’ wabtelletil urûk wa thaba-t-al-ejr inshâ-Allâhu ta’âlâ)**[2] when making the iftâr [as noted in the Shalbî annotation to **Tabyîn**], to perform the namâz of tarâwîh, and to read the entire Qur’ân.”

THE FAST HAS THREE FARDS:

1 - Niyya (to intend);

2 - To know the earliest time of the niyya, as well as its latest time;

3 - To fend off the things that will break the fast starting from dawn (fajr sâdiq) up to sunset, [that is, within the shar’î day].[3]

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[1] See ‘Sacred Nights’ in the second fascicle of **Endless Bliss**.

[2] The meaning of this prayer is: “Time of hunger is over. It is time our veins attained water. Inshâ-Allâh, thawâb has ensued.

[3] The word **‘shar’î’** is an adjective. It means ‘that which is prescribed by the Islamic Sharî’at. Please see the tenth chapter, **Prayer Times**, in the fourth fascicle of **Endless Bliss**.

THERE ARE EIGHT KINDS OF FAST:

1 - The fasts that are fard. Fard fasts also have two kinds: the one which is performed at a certain time, fasting during Ramadân-i-sherîf.

2 - The fast that is fard and yet which is not performed at a certain time. Examples of this are the fasts of qadâ and kaffârat. But the fast of kaffârat is fard-i-'amalî. That is, he who denies it does not become a disbeliever.

3 - The fast that is wâjib and which is performed at a certain time, too, such as vowing to fast on a certain day or on certain days.

4 - The fast which is performed at haphazard times.[1]

5 - The fast that is sunna, e.g. fasting on the ninth and tenth days of Muharram.

6 - The fast that is mustahab, examples of which are fasting on the thirteenth, fourteenth and fifteenth days of every Arabic month, fasting only on Fridays, fasting on the day of 'Arafa, which is the day previous to the 'Iyd of Qurbân. It is also said (by some savants) that it is makrûh to fast only on Fridays. A person who wants to fast on Friday had better fast on Thursday or Saturday, too. For, it is better to avoid doing something which is said to be sunnat or makrûh.

7 - The fast that is harâm. It is harâm to fast on the first day of the 'Iyd of Fitra and on any of all four days of the 'Iyd of Qurbân.

8 - The fast that is makrûh: to fast only on the tenth day of Muharram, only on Saturdays, on the days of Nawruz and Mihrijan, [which are the twentieth days of March and September, respectively], to fast every day throughout the year, and to fast without talking at all.

In a hadîth-i-sherîf quoted in **Marâqil-falâh,** it is declared: **"When you see the Moon start fasting! When you see her again, stop fasting."** According to this command, the month of Ramadân begins when the waxing moon (the new crescent) is first sighted. In **Ibni 'Âbidîn'**s discussion of the qibla and in the books **Ashî'at-ul-lama'ât** and **Ni'mat-i islâm,** the authors 'rahmatullâhi ta'âlâ 'alaihim ajma'în' note that starting to fast by referring to a calendar prepared or by calculation before seeing the new crescent is not permissible. It is wâjib-i-kifâya for every Muslim to look for

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[1] It goes without saying that they should not be times during which Islam prohibits fasting.

the new crescent on the thirtieth of the month of Sha'bân at the time of sunset and to go to the Qâdî and inform him as soon as they see the new moon. Taqiy-y-ud-dîn Muhammad ibni Daqîq states that the new moon can never be sighted before one or two days after the **ijtimâ'i neyyireyn** = **conjunction**. [See the eleventh chapter.]

Scholars of the four Madhhabs unanimously state that fasting starts at the beginning of whiteness at one point of the horizon, which is called fajr-i sâdiq. It is stated in the book **Multaqâ**: "Fasting is not to eat, drink or have sexual intercourse from dawn till sunset. It is fard also to intend with the heart, (any time) within the period from the previous day's sunset until the time of **dahwa-i-kubrâ** on the day when you will fast for a fast in the month of Ramadân. So is the time of niyya for a fast which is vowed for a certain day and for a supererogatory fast. It is necessary to intend for each individual day. When intending to fast in Ramadân, it is also permissible to intend for a mere fast or for a supererogatory fast without mentioning the name Ramadân. The time of dahwa-i-kubrâ is the middle of the duration of the fast, i.e., of the Islamic daytime; hence, it is before noon. The interval between these two times, (i.e. between the time of dahwa-i-kubrâ and time of noon,) is equal to half the time interval between the time of sunrise and the time of fajr, or imsâk, that is, as many minutes as half the time called **Hissa-i-fajr**. [Based on the time called Adhânî (or Azânî), Dahwa-i-kubrâ is Fajr+(24-Fajr)÷2=Fajr+12-Fajr÷2=12+Fajr÷2. In other words, half the Fajr time from 12 a.m. is Dahwa-i-kubrâ.] As one makes niyya before Fajr, i.e., before the time of Imsâk, one says, "I make niyya (intend) to fast tomorrow." And if one makes niyya after the Imsâk, one says, "I make niyya to fast today." Since fasting during Ramadân-i-sherîf is fard for every Muslim, it is fard for those who cannot fast then to make qadâ of it, (that is, to fast later.) The fast of qadâ or kaffârat and the fast which is vowed but not for a certain day cannot be intended for after dawn.

For it to be Ramadân, the new moon must be observed and seen in the sky at the time of sunset on the twenty-ninth of Sha'bân or, if it cannot be seen, the thirtieth day of Sha'bân must be over. It is fasted until the time of the early afternoon prayer on the thirtieth day of Sha'bân, and then the fast is broken if the day is not announced to be Ramadân. It is makrûh tahrîmî not to break it and to go on fasting. If one begins fasting without observing the new moon indicating the beginning of Ramadân and then if the new moon is observed on the twenty-ninth night, which will mean

(that the following day is the beginning of the following month, Shawwâl, the first day of which is at the same time the first day of) ’Iyd, qadâ for one day is performed, (that is, one fasts one day again), after the ’Iyd, if the month of Sha’bân is known to have begun upon the observation of the new moon. On the other hand, it is written in (the celebrated books) **Hindiyya** and **Qâdi-Khân** that, if the month of Sha’bân is not known to have begun upon the observation of the new moon, one makes qadâ for two days, (that is, one fasts for two days with the intention of qadâ.) In cloudy weather when an ’âdil Muslim woman or man says she or he has seen the new moon, and in clear weather when a lot of people say that they have seen it, the Qâdî, that is, the judge who executes the ahkâm-i-islâmiyya, announces that it is Ramadân. At places without a Qâdî, Ramadân begins when an ’âdil person says he has seen the new moon. It is determined to be the ’Iyd when two ’âdil people say they have seen (the new moon). **’Âdil** means (one) who does not commit grave sins and who has not made it a habit to commit venial sins. [It is a grave sin to give up namâz (salât). See chapter 23 in the fourth fascicle.] The word of a person of doubtful ’adâla is also acceptable. It is written in **Fatâwâ-i-Hindiyya** as well that it is not permissible to begin (fasting in) Ramadân or (to stop fasting in order to celebrate the) ’Iyd by (taking the) calendar or calculation (as a guide).

[It is written in the hundred and thirty-ninth page of **Hadîqa**: “Holders of bid’at, that is, all the seventy-two groups who have deviated from the Ahl-as-sunna, are not ’âdil, even though they are **Ahl-i-qibla** and do all kinds of worship. For, either they have become mulhids and lost their îmân, or they are holders of bid’at, and they vituperate the (true Muslims who are called) the Ahl as-sunna(t), which is a grave sin, too.” The book **Durr-ul-mukhtâr,** in advising us on how to be a witness and how to give our testimony, says: “To speak ill of any Muslim is a sin. It destroys one’s ’adâla. (If a person perpetrates this grave sin,) his testimony is not to be accepted.” Therefore, when determining the times for Ramadân, ’Iyd, hajj, iftâr, and namâz, or when seeking any religious knowledge one should not accept the testimony of the lâ-madhhabîs (people without a certain authorized Madhhab).]

When the new moon is seen in a city on the thirtieth night of Sha’bân, it is necessary to begin the fast all over the world. The new moon seen during the day is the new moon of the following evening.

[Also, a Muslim who goes to one of the poles or to the moon must fast there during the days in this month, unless he has

intended to be safarî.[1] On days longer than twenty-four hours he begins the fast by time and breaks it by time. He adapts himself to the time followed by the Muslims in a city where the days are not so long. If he does not fast he makes qadâ of it when he goes to a city where the days are not long.]

The first day of Ramadân (determined and whereby the fast is) started upon seeing the new moon can be a day after that which is estimated by calculation. But it cannot be the day before. The case is the same with the day of **’Arafa,** during which we stay for the waqfa at ’Arafât.[2] It is said on the 283rd page of the book, **Bahr**[3]: “If a captive who is in a disbelievers’ country does not know the correct time of Ramadân, he makes an enquiry and fasts for a month whenever he guesses it is the month of Ramadân. Later, when he is informed about the correct time, he will make qadâ of the days he fasted before Ramadân. If he started his fast after the correct day, yet made his intention before dawn (every day he fasted), all the days he fasted are counted as qadâ. If a day he fasted coincided with the first day of Iyd-i Fitr, he will make an additional qadâ for that day.”

In places where the Ramadân or ’Iyd are started by relying upon calendars instead of by watching for the new moon in the sky, the fasting and ’Iyd may have started a day before or after the correct time. Even if the fast’s first and last days coincided with the correct time of Ramadân, it would be questionable whether they were Ramadân days or not. **Ibni ’Âbidîn** ’rahmatullâhi ’alaih’ says in the chapter discussing Ramadân: “Fasting is tahrîmâ makrûh on days that are not known for certain that they are the correct days of Ramadân. It is not an excuse to be unaware of worships in a country of Muslims.” Therefore, in places where Ramadân starts by relying upon a calendar or by imitating lâ-madhhabî countries, it will be necessary to fast two additional days of qadâ. [Disbelievers and the enemies of Islam are turning Muslim countries into blood all over, demolishing and extirpating mosques and other Islamic works of art, on the one hand; and finding unlearned, heretical and immoral people living in Muslim countries and through them uprooting

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[1] See the fifteenth chapter in the fourth fascicle of **Endless Bliss** for safarî.

[2] These will be explained in the subject of Hajj.

[3] **Bahr-ur-râiq**, by Zeyn-al-’âbidîn bin Ibrâhîm ibni Nujaym-i-Misrî ‘rahmatullâhi ta’âlâ ’alaih’, (926 – 970 [1562 A.D.], Egypt,) is a commentary to the book **Kenz**, which had been written by Abdullah bin Ahmad Nesefî.

Islamic teachings, writing their own heresies and lies in the name of Islam, and attacking the books written by the scholars of Ahl as-sunnna, on the other. These attacks against Islam are planned, only and always, by British plotters. They say, for instance, “Who invented that oddity of fasting for two days with the intention of qadâ after Ramadân? Nothing of this sort exists in any book.” It is wrong to says that it is not written in books. For, the month of Ramadân used to start upon the sighting of the new moon, everywhere and in every century. It would not be necessary, therefore, to fast for two additional days with the intention of making qadâ. Today, however, the month of Ramadân is being started at the time when the new moon is beforehand calculated to be sighted. Therefore, the beginning of Ramadân is out of keeping with the ahkâm-i-islâmiyya (rules of Islam). That this misapplication should be rectified by fasting for two days with the intention of qadâ after ’Iyd of Ramadân is written in Tahtâwî’s annotation to (Shernblâlî’s commentary to) **Marâq-il-falâh**.] It is written in the book **Majmû’a-i Zuhdiyya**: “A person who sees the new moon of the month of Shawwâl cannot break his fast. For, in cloudy weather, it is necessary for two men or one man and two women to give the testimony of having seen the new moon of Shawwâl. If the sky is clear, it is necessary for many people to witness the moons of Ramadân and Shawwâl.” It is stated in **Qâdî-Khân**: “If the new moon sets after the Shafaq, (night prayer,) it belongs to the second night (of the new month); if it sets before the Shafâq it belongs to the first night.[1]

To get ready for the fast of Ramadân-i-sherîf, it is necessary to stop fasting by the fifteenth of Sha’bân and to strengthen the body by eating nutritionally strong and delicious food, and thus to prepare it to do the fard. Workers, soldiers and students who have the habit of performing the fasts of sunna after the fifteenth of Sha’bân must perform them in their leisure time after Ramadân. It is also sunna to postpone the sunna in order to do the fard.

It is sunna to make haste for the iftâr and to have the sahûr late providing that it is before the fajr dawns. Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ was very keen on observing these two sunnats. It is written in **Durer**: “The meal eaten at the time of seher is called sahûr. The time of seher is the final sixth of the night, [i.e., (of the

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[1] It would be pertinent to remind at this point that the ‘second’ and ‘first’ nights mentioned here are the nights previous to the ‘second’ and ‘first’ days, respectively.

time) from shar'î sunset to the time of imsâk.]" It has been made a sunna to make haste for the iftâr and to have the sahûr late perhaps because it shows that man is weak and needy. As a matter of fact, worships are intended for showing weakness and need.

It is said in the book **Riyâd-un-nasihîn**: "An âyat-i-kerîma in the Baqara Sûra purports: **'Eat and drink until you are able to distinguish a white thread from a black thread.'** Later, the word **fajrin** was revealed to indicate that these threads represent daylight and the darkness of night. Thus it was understood that fasting would begin when the whiteness of the day could be distinguished from the blackness of the night like threads." It is said in the books **Majmâ'ul Anhur** and **Hindiyya**: "According to the majority of Hanafî savants, when the whiteness appears on any place on the horizon, **imsâk time** begins and fasting should begin. [15] minutes after imsâk time, when the whiteness has spread over the horizon like a thread, the time of morning prayer starts. It would be prudent to act accordingly. [That is, it would be better and more cautious.] The fasting and prayer of anyone who follows this policy will be valid according to all the savants. Yet if he starts fasting after the secondly-stated imsâk time, (i.e. fifteen minutes later,) it will be questionable. Imsâk time is being determined by astronomic calculation and written in calendars. But nowadays, in some calendars, the second time, nay, even later than that, when the redness of the sun is spread over the horizon, is being written as the beginning of the fast. If anyone acts up to these new calendars, their fast will be incorrect and invalid. Or, at best, the validity of their fasting will be questionable. The difference between these two times (the beginning of the fast and morning prayer) is about 10 minutes and is called **"Precaution time."** It is not correct to describe that time as "tamkîn." The author of the book, **Bahr-ur-râiq** informs us that it would be makrûh to delay the fasting time until the questionable time. In fact, the fastings that begin after the appearance of redness will not be valid at all. Please see the tenth chapter of the fourth fascicle of **Endless Bliss**. The first calendar in the Ottomon State was written in 987 [1528 A.D.].

Shernblâlî 'rahmatullâhi ta'âlâ 'alaih', states in the book **Nûr-ul-îdhâh**: "It is mustahab to have the iftâr early on cloudless nights." In his commentary to the same book, he states: "On cloudy nights one must be careful in order to protect one's fast from being broken, [that is, one must delay the iftâr a little]. A person who eats the iftâr before the stars are seen has done it early enough." Tahtâwî says in his annotation to the book: "It is

mustahab to break fast before performing the evening prayer. As is written in the book **Bahr** [and also in **Ibni 'Âbidîn**], to make haste for the iftâr means to have the iftâr before the stars are seen." Also it is mustahab to perform the evening prayer at that time; that is, to perform it early. When it is well understood that the sun has set, first (the (prayers termed) 'A'ûdhu' and 'Besmela' are said and immediately thereafter the following prayer is said: "**Allâhumma yâ wâsi'al maghfireh ighfirlî wa li-wâlideyya wa li-ustâziyya wa li-l-mu'minîna wa-l-mu'minât yawma yekûm-ul-hisâb**." Next, a few morsels are eaten for iftâr. Then the following prayer is said: "**Dhehebezzama' wabtelletil urûk wa thaba-t-al ejr inshâ Allâhu ta'âlâ**." (The meaning of this prayer has been provided in a footnote a few pages earlier.) Then the iftâr is made by eating dates, water, olives or salt. That is, the fast is broken. Then the evening prayer is performed in jamâ'at in a mosque or at home. Then the supper is had. Because it will take a long time to eat the food at the table, especially during Ramadân, the iftâr must be made with a little food and the supper must be had after the evening prayer so that the evening prayer will be performed early and the meal will be eaten with ease and without haste. Thus, the fast will be broken early and the prayer will be performed early.

Where the terrain is level, such as seas and plains, or at any point where there is no barrier such as hills and buildings in between, sunset occurs when the sun's upper limb disappears below the visible horizon [not true horizon]. At that time the sun will still illuminate the hills on the eastern side. For someone who is not able to see the sunset on the visible horizon line, the sunset time is shar'î sunset, which is the sun's disappearing below the shar'î horizon, at which time the sun no longer illuminates the mountains and clouds on the east side. Its lights withdraw and the east side becomes darker. On hilly or mountainous terrain, it is not sufficient for the sun to disappear behind the hills and buildings, but it is also necessary for the light to go dim everywhere, and for a darkening of the sky on the east side to occur. Since times of shar'î sunset are written on calendars, it is necessary for those who cannot see the visible horizon to perform iftâr in accordance with the calendar. Ibni 'Âbidîn, while discussing the mustahabs of fasting, says: "People living in low areas should have iftâr when they see the sunset. Those who live in higher elevations cannot have the iftâr at the same time as the former do, since they do not see sunset at that time." He informs us that the hadîth-i-sherîf that reads, **"Iftâr is started when the night starts from there,"** which he quotes during the course of his expatiation on fast, means to have the iftâr when

it starts to become dark on the east side. [The beginning of the dark means the disappearing of light even in the highest areas.]

It is mustahab to have the iftâr before performing the evening prayer. However, the mustahab must be done without in order to save an act of worship from the danger of coming to naught. One should first perform the evening prayer and then have the iftâr. Thus, the iftâr will still be had before the stars are seen. That is, one will have made haste and one's fast will be safe from the danger of becoming null and void. It is possible to perform the maghrîb salât (evening prayer) again before its time is over. The mistake's being on the part of the calendar, clock, candles, gun or adhân does not save one's fast from being ruined.

Ibni 'Âbidîn says in the section about prayer times: "Starting the iftâr requires two 'âdil Muslims' reporting that the sun has set. Even one Muslim will do." [As is seen above, the person who prepares the calendar, the person who fires the iftâr cannon and the person who calls the adhân should all be 'âdil Muslims.]

WHAT BREAKS THE FAST — In the month of Ramadân, while one knows that one is fasting and while one has intended before the dawning of the previous fajr for the fast, eating or drinking something alimentary, that is, putting some nutritious, medicinal, narcotic or intoxicant substance into the stomach through the mouth, or having or being made to have sexual intercourse breaks the fast and necessitates qadâ and kaffârat.[1] According to this definition, smoking breaks the fast and necessitates both qadâ and kaffârat. For, the solid and liquid motes in the smoke go into the stomach together with the saliva. After such things as cupping and backbiting, which are certainly known not to break the fast, if one eats something consciously because one thinks that one's fast has already been broken, one's fast will be broken this time and qadâ and kaffârat will be necessary. If a person who has not made his niyya before dawn in Ramadân does something to break his fast before dahwa, both qadâ and kaffârat are necessary according to the two imâms. For, he missed the opportunity to make niyya and fast while it was possible for him to do so. But according to Imâm-i-a'zam only qadâ is necessary. If that person eats and drinks after the dahwa time, kaffârat is not necessary according to all three imâms. The penalty of kaffârat is the recompense for desecrating the honour and dignity of the blessed month of Ramadân. It is the punishment for intentionally breaking the fast of Ramadân which is

[1] Kaffârat for the voluntarily broken fast will be explained a few pages ahead.

sahîh according to all four Madhâhib.[1] For this reason, it being compulsory to make the niyya before dawn in the Shafi'î Madhhab, if a person in the Hanafî Madhhab purposely breaks during the day the fast for which he did not make niyya before dawn, or if he is forced to break it or has to break it because of a good excuse, he does not make kaffârat. When one breaks one's fast of qadâ or vowed fast or supererogatory fast, one does not make kaffârat. If a person who did something that necessitates only qadâ on one day of Ramadân does the same thing purposely on another day, it is necessary for him to make kaffârat, too.

If one breaks it by mistake, for example, if some water escapes down one's throat while making an ablution, if one is forced to break it, if one administers an enema, if one sniffs up fluid medicine, lotion, smoke, [the smoke of a cigarette smoked by someone else], or the smoke of aloes wood fumigated with amber, into one's nose or drops medicine into one's ear, if the medicine put on the boil on one's skin penetrates in, [if one injects medicine by syringe], if one swallows something not medicinal or nutritious, such as a piece of paper, stone, or metal, cotton or a seed of uncooked rice, millets or lentils, if one vomits a mouthful by forcing oneself to, if one with a bleeding tooth swallows only the blood or the blood which is fifty per cent mixed with saliva, if one eats not knowing that the dawn has broken or breaks the fast thinking that the sun has set, if one goes on eating thinking that one's fast is broken because one has forgotten one's fast and begun eating, if they pour water into one's mouth or have sexual intercourse with one while one is asleep, if one fasts without intending or does not intend before dawn in Ramadân and then gives up the fast after dahwa though one intended after dawn; the fast is broken in any of these cases and it is necessary to make only a day-for-day qadâ after the 'Iyd. Yet kaffârat is not necessary. If rain or snow goes down one's throat it breaks both the fast and the namâz. It is necessary to make qadâ. If one becomes junub by embracing, hugging and kissing, one's fast breaks and qadâ becomes necessary. But it does not break if one does not become junub. It is stated by the authors 'rahmatullâhi 'alaihim ajma'în' of the books **Hindiyya**, **Bahr**, and **Durr-ul-Mukhtâr** that only qadâ is necessary when one becomes junub by manual masturbation. If one swallows something that has remained between one's teeth from the previous night, it breaks the fast if it is bigger than a chick-pea and qadâ becomes necessary. But it does not break the fast if it is smaller than a chick-pea. If a person who

[1] Madhâhib is the plural form of Madhhab.

has forgotten his fast and eaten something eats or drinks something again after remembering that he is fasting though he knows that forgetting and eating will not break his fast, his fast breaks and it becomes necessary to make both qadâ and kaffârat.

It is written in **Multaqâ** and in all other books that, "If the medicine put on a boil on one's head or body penetrates into one's brain or alimentary canal, one's fast breaks and only qadâ becomes necessary." It is written in the commentary to **Multaqâ**: "Imâm-i-a'zam says that a fast breaks when food penetrates through a boil. But the two imâms say that it does not break because the fast breaks only when food goes in through the natural holes of one's body." Tahtâwî explains this very well in his annotation to **Marâq-il-falâh.** He says: "If it is known that the liquid or solid medicine put on the boil on one's head or body has penetrated into one's brain or alimentary canal, one's fast breaks. If it is not known well that it has penetrated in, if the medicine is liquid one's fast breaks according to Imâm-i-a'zam. But the two imâms said that it does not break if it is not known for certain that the medicine has penetrated in. All three imâms agreed that the fast would not break if the medicine which was not known for certain to have penetrated in was solid." Hence, all three imâms agree on that the fast breaks when it is known for certain that the medicine has penetrated in, whether it is liquid or solid. This comes to mean that any inoculation or medical injection done with a syringe under the skin or in the muscles of one's arms, legs or any other part breaks the fast.

WHAT DOES NOT BREAK THE FAST — In Ramadân-i-sherîf or while fasting for qadâ or kaffârat or while performing vowed or supererogatory fast, if one forgets that one is fasting and eats, drinks, or has sexual intercourse, or has a nocturnal emission while asleep or emits semen involuntarily by looking [at something sexy] while awake, if one applies tincture of iodine or some ointment or kohl [even if their tint or smell is noticed in one's saliva or urine], or if one kisses lustfully, backbites, applies cupping, vomits a mouthful involuntarily or vomits a little voluntarily, or if water goes into one's ear or dust, smoke or a fly goes into one's throat through one's mouth or nose involuntarily, [or if one is given artificial air with an oxygen tube, or if one cannot prevent the smoke of others' cigarettes from going into one's mouth and nose], or if after rinsing one's mouth one swallows the wetness remaining in one's mouth together with one's saliva, or if one puts some medicine in one's eye or tooth cavity even if one feels its taste in one's throat; the fast does not break in any of these cases.

[The author of the book **Bahr-ur râiq**, 'rahmatullâhi ta'âlâ 'alaih' says: "In some cases the mouth is thought of as an internal part of the body. Hence, if a fasting person swallows his saliva, his fast will not break. It is like something dirty inside the body passing from stomach to intestines. Bleeding from an injury in the mouth, from taking a tooth out, or at the point where an injection was made, or blood coming from the stomach to the mouth doesn't break a fast or an ablution. When one spits out or swallows this blood, if the saliva is greater than the blood, that is, if it is yellow in colour, they are still not broken. It is the same when other things come to the mouth from the stomach, in which case neither the ablution nor the fast is broken. If a mouthful (comes to the mouth and) goes out of the mouth, both are broken. The inside of the mouth is sometimes considered to be an outer part of the body. The fast is not broken when water is taken into the mouth." The same is noted in **Jawhara-t-un-neyyira**, too. Hence, it is seen that, when a tooth is extracted, if there is much bleeding, the fast is not broken when one spits it out. When one is not fasting, one's ablution is not broken when one swallows it. Neither of the two is broken in any case if the blood is less than the amount of saliva.

It is stated in **Fatâwâ-yi-Hindiyya**: "Administering clyster (enema) or dropping medicine into the ear-hole will break one's fast, yet it will not necessitate kaffârat. Injecting water or oil into the penis will not break one's fast even if the liquid reaches the bladder. However, liquid injected into the female pudendum will break a woman's fast. Inserting one's wet or ointed finger into one's rectum or vagina will break one's fast. A dry finger (inserted into the rectum or vagina) will not break it. Water which one inadvertently lets go into one's rectum when cleaning oneself after defecation will break one's fast."]

Such acts as tasting the food (while preparing it) without swallowing it, chewing gum-mastic, hugging and kissing despite the danger of becoming junub, having a bath for refreshment will not break one's fast, yet they are tanzîhî makrûh.[1] Applying kohl (on

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[1] Acts which our Prophet 'sall-Allâhu 'alaihi wasallam' disliked, abstained from or dissuaded from are called makrûh. These acts are not clearly prohibited in the Qur'ân al-kerîm. However, The Messenger of Allah avoided some of them more strictly than he did the others. The scholars of Ahl as-sunna — may Allâhu ta'âlâ reward those great people plentifully — separated these acts from the others and termed them **'tahrîmî'** on account of the danger that these acts may be harâm. And they termed the other acts of makrûh **'tanzîhî'**.

one’s eyes) or cosmetics on one’s moustache, smelling flowers, musks or lotions will not break one’s fast; nor are they makrûh. Things such as kohl (on the eyes) and cosmetics (on one’s moustache) are makrûh when they are intended for ornamentation; and so is the case with flowers attached to the collar or carried in one’s hand. Smelling dusty or smoky things or chewing artificial gums will break one’s fast. Using (the stick tooth-brush called) miswâk or cupping or bleeding are not makrûh.

It is mustahab to have the sahûr late and to make haste for the iftâr. Ibni ’Âbidîn says: “This commendation is intended to secure the iftâr against being delayed until the stars are seen. In cloudy weather, even if the adhân is called and the gun is fired, one should not break fast until one is certain that the sun has set.” It is commanded in the 187th âyat of the Sûra Baqara that fasting starts as fair-sâdiq[1] breaks. This is a command of Allah and cannot be changed.

An invalid person does not fast if his illness will become worse; a pregnant woman, a woman with a suckling and a soldier in warfare do not fast when they are weak. They make qadâ of fast when they recover. A worker who knows that he will become ill as he works to make his living is not permitted to break his fast before getting ill. A person who sets out with the intention of going three-days’ way [104 kilometres], becomes a musâfir. The musâfir may break his fast the following day, and makes qadâ after Ramadân; yet he had better fast if it will not harm him. No need of kaffârat for breaking the fast during the journey or in places where one intends to stay less than fifteen days. When his journey is over and he comes back home or when he decides to stay for fifteen days in the place he has gone to, he makes qadâ of the days he did not fast. People who are not ill and those who are not musâfirs must fast even if they are workers, soldiers or students. They will be gravely sinful if they do not fast. And they will have to make qadâ for it. If they break the fast although they have made niyya, they will have to make kaffârat, too. The author of **Behjet-ul-fatâwâ**, ‘rahmatullâhi ta’âlâ ’alaih’ says: “When Ramadân-i-sherîf coincides with one of the summer months a liar may masquerade as a man of religion and hinder youngsters, students, and workers from fasting by saying, ‘It is permissible for you not to make the niyya and not to fast now; you may make qadâ when the days are shorter during winter. If you eat and drink by not

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[1] Faj-i-sâdiq is the time when the sun’s upper limb is 19° below the horizon. Please see the tenth chapter of the fourth fascicle of **Endless Bliss**.

intending for the fast in Ramadân, kaffârat is not necessary.’ He will be punished severely. He will be prevented from saying so.”

Ibni ’Âbidîn says: “If an ill person is seriously worried that his illness may become worse, or that his recovering may be slowed or he may have a severe pain, or if a hospital attendant fears that he himself may become ill (in case he fasts) and and thereby cause helâk to his patients, these people do not fast, and they make qadâ later. If a healthy person strongly believes that he would become ill, or a public servant who performs manual labor in adverse conditions, i.e. cleaning the river, worries about becoming seriously ill due to the effect of very hot or cold weather, which in turn causes helâk, or if a woman [who works to support herself and who lives alone and gets no financial support from anywhere] strongly believes that she would become ill if she fasted while performing strenuous physical labor, such as a laundry washing or housework, which, again, is a cause of helâk, it is permissible not to fast or to break the fast intended, and make qadâ for it. A strong belief means to notice the symptoms of death based on one’s own personal experience or the information given by a Muslim expert physician (Tabîb-i Muslim-i hâziq). Expert (hâziq) means specialist in a certain field of medicine. It is permissible to be examined and treated by a physician who is known as a kâfir (disbeliever) or as a person committing a grave sin or grave sins; but acts of worship should not be given up with their advice. Breaking your fast because they advise that you do so, entails kaffârat.” The author says under the topic of Ikrâh (duress)[1] that to lose an organ or limb; to lose one’s entire property; to suffer a violent or torturous imprisonment; and battery; these things are all causes of helâk.[2] It is written in the book **Imâd-ul Islâm**: “If one cannot find a Muslim expert physician and has no experience oneself one should first swallow a small curled up piece of paper or swallow an uncooked grain of rice without any water, then eat some food, and then take the medicine. This procedure will free one from kaffârat.” In the book **Bahr-ur-râiq** is written: “A person bitten by a venomous animal, breaks the fast in order to take an antidote and after Ramadân makes qadâ.” Ibni ’Âbidîn says at the end of his discourse on the acts that annul fast: “A person who needs a means of

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[1] Please see the fourteenth chapter of the sixth fascicle of **Endless Bliss** for ‘Ikrâh’.

[2] Lexical meaning of ‘helâk’ is ‘destruction’, ‘perishing’, ‘exhaustion’. In this register, it is used to mean ‘the measure of harm or danger which Islam has dictated as a gauge whereby to decide about the step to be taken’.

subsistence and believes that he will possibly become ill if he works, breaks the fast. If he is an employee on a contractual basis and his employer does not grant him a leave of absence during the month of Ramadân, and yet if he and his family have the means of subsistence, he does not break the fast. For, begging is harâm for such a person. If he does not have his and his family's means of subsistence, it is necessary for him to find an easier job that will not be hampered on account of his fasting. If he cannot find an easier job, it is permissible to break the fast and continue to work. Likewise, if the Ramadân fasting harms someone who mows the crop, i.e. if he will not be able to mow the crop and the crop will be destroyed or stolen because of fasting, [or if it is certain that the building will be destroyed by rain in case the construction cannot be finished in time], and if it is impossible to find someone to work for pay, it is permissible to break the fast and do the work. After finishing the work he fasts and makes qadâ, after Ramadân, of the days (he did not fast). It will not be a sin. Anyone who will certainly become ill or die from thirst (in case he goes on fasting) may break the fast, and makes qadâ. In this case he does not make kaffârat."

QADÂ FOR THE FAST — It means to fast one day for one day, which can be performed sporadically as well as on successive days. If another Ramadân intervenes while one is fasting intermittently, one fasts for the Ramadân first. A person who is so old that he will not be able to perform the fast of Ramadân or his fasts of qadâ till his death, and an invalid person whose recovery is beyond hope, must eat secretly. If he is rich, for each day he gives one fitra, that is, five hundred and twenty dirhams [seventeen hundred and fifty grams] of wheat or flour or its equivalent in gold or silver money to one or more poor people. The total amount may also be given to one poor person all at once at the beginning or end of Ramadân. If he recovers after giving the fidya he performs his fasts of Ramadân as well as his fasts of qadâ, (i.e. those which he did not perform on account of his illness.) If he dies without giving the fidya, he wills (before dying) for isqât.[1] If he is poor, he does not give the fidya. He prays. If an old or invalid person of this kind cannot fast in hot or cold season, he makes qadâ in any season suitable for him. A person who cannot perform the salât standing as he fasts, fasts and performs the salât sitting. If a person breaks the fast or if a child becomes pubert or if a disbeliever becomes a Muslim or if a musâfir comes back to the city where his home is or

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[1] Please see the twenty-first chapter for 'isqât'.

if a woman becomes pure (of menstruation); they must abstain (from eating, etc.) as if they were fasting till evening that day. The musâfir and the woman make qadâ of that day later.

KAFFÂRAT FOR THE (BROKEN) **FAST —** A slave is manumited for the kaffârat of a fast. He who cannot manumit a slave fasts successively for sixty days. After sixty days, he makes qadâ for each day that he did not fast.

A person who has debts of kaffârat for several past Ramadâns or who has had two days each requiring a kaffârat for the same Ramadân makes only one kaffârat for both if he has not made kaffârat for the first one. But if he made the first kaffârat (before the second violation entailing a kaffârat), he makes the second one, too.

If the fast of kaffârat is broken for excusable reasons such as illness and long-distance journey or because it is intervened by days of 'Iyd or by Ramadân, it is necessary to fast for sixty days anew. If one does not break it on days of 'Iyd, one still has to begin anew. If a woman breaks it because of menstruation or lochia, she does not begin it anew. She completes it to sixty when she becomes pure. Yet if one of the same reasons, (i.e. menstruation or lochia), interrupts a woman's fast of kaffârat for a (broken) oath, which consists of fasting for three successive days, she has to fast for three successive days again. One must begin one's fast of kaffârat at such a time that it should not coincide with Ramadân or with any 'Iyd. If one begins one's fast of kaffârat on the first day of Rajab and if the sixty days are not completed by the last day of Sha'bân, one intends for going on a journey of three days' distance and leaves one's town. One intends for the fast of kaffârat on the first day of Ramadân **[Eshbâh]**. For, it is not fard for a musâfir to perform the fast of Ramadân; he is permitted to make qadâ of it later.

If a person is continuously ill or too old to fast for sixty days, he feeds sixty poor people one day. (To do this) it is necessary to give two complete meals to sixty hungry poor people in one day. It is not necessary for all of them to eat on the same day. It is also permissible to give two complete meals per day to one poor person for sixty days, or one complete meal per day for one hundred and twenty days. Or, he gives half a sâ' [seventeen hundred and fifty grams] of wheat or flour, or one sâ' of barley, raisins, or dates to each one of the sixty poor people. It is also permissible to give the equivalent of the same in bread or other property or gold or silver to each of the sixty poor people, or to give the same amount to one poor person for sixty sucessive days. It is written in **Badâyi'** that also fulûs (paper money) may be given to the poor to feed himself

instead of meals. If he gives the sixty days' food altogether to one poor person in one day, he will have given that of one day. If he feeds sixty poor people in the morning and sixty other poor people in the evening, he will have to feed those whom he has fed in the morning once more in the evening or those whom he has fed in the evening once more in the morning. Or he gives goods equivalent to one sadaqa fitr to each one of the sixty poor. If he gives twice the amount [one sâ'] of wheat to each of the sixty poor people for two kaffârats, he will have paid one kaffârat. It is not permissible for one who can buy a slave to fast (instead of buying the slave) and for one who can fast to feed the poor (instead of fasting). If this invalid or old person is poor, he feeds the poor when he becomes rich. It is necessary to make a niyyat for kaffârat.

People who have an excuse must eat secretly on the days when they cannot fast. Those who purposely do not observe the fast and eat in the presence of Muslims at public places and those who mislead fasting people and prevent their fast, will lose their îmân (for doing so). It is sinful to run places for eating and drinking, such as restaurants, cafeterias, casinos and buffets during the days of Ramadân. What they earn from those who do not observe the fast is halâl, but abominable and harmful. They must be opened after the iftâr.

Gee, it's Ramadan, eventually,
Mosques radiate lights, spiritually.
Cannon was fired 'nd candles lit, brightly.
We all believe this, sincerely.

The first ten days, Rahma abounds,
Then sins are forgiven, big as mounds,
Sinful Believers in their Hellward rounds,
On the 'Iyd night are saved in crowds.

O my brother, come on, make thine fast,
Perform your namâz before time goes past,
Run away from sins at full blast,
Bitter fire in Hell approaches fast.

Your enemy attacks, and so sneaky,
"Alas," he says, "Fast will weaken thee!"
He fibs in the name of science, you see,
He lives a lie, a life awash in treachery.

Wake up! Most of your life is gone by,
Fast, and to hunger's taste give a try;
Read true Islamic books, and thereby,
Smell the odour that will you to humanity tie.

3 – SADAQA FITR

All of the following information was translated originally from Durr-ul-mukhtâr, **and from Ibni ’Âbidîn’s** Radd-ul-muhtâr, **which is a commentary to the former**:

By the first light of the morning of the first day of ’Iyd of Ramadân, to give the Fitra becomes wâjib for every free Muslim who has property or money as much as the amount of nisâb in addition to his indispensable belongings and debts. It does not become wâjib before or after that time. The property that is to be included in the calculation of nisâb for fitra and Qurbân does not necessarily have to be intended for trade, nor does one have to have had it for one year. The condition is that one should have property as much as the amount of nisâb by the time morning prayer becomes performable on the first day of ’Iyd. Giving the fitra is not wâjib for a person who receives the amount of nisâb or who is born, or becomes a Muslim after that moment. It is necessary also for the safarî Muslim to give the fitra. It is also permissible to give it during Ramadân-i-sherîf, before Ramadân, or after the ’Iyd. In fact, if a person died before giving the fitra, zakât, kaffârat, or something he had vowed, and if he did not will it in his last request that it must be given, it is permissible for one of his inheritors to give it to the poor out of his own property, [not out of the dead person’s property.] But the inheritor does not have to give it. If he willed that it must be given, it is necessary to give it out of a third of the property he has left behind. His will is not executed if he has not left property. There will be more blessings if the fitra is given before the ’Iyd prayer. It cannot be given before Ramadân in the Shâfi’î Madhhab and before ’Iyd in the Madhâhib of Mâlikî and Hanbalî. As one person’s fitra can be given to one or more poor people, so one poor person can be given the fitras of several people. If a small child or an insane person has property, his fitra is also given out of his property. If their guardian does not give it, the child gives his past fitra when he grows up and the insane person gives his when he recovers. If a child below the age of puberty does not have property, its father gives its fitra together with his own fitra. That is, he gives it if he is rich. He does not have to give the fitra for his wife or older children. But he attains blessings if he gives it.

It is written in **Durr-ul-mukhtâr** and in **Radd-ul-muhtâr**: “If a person gives the fitra for someone else out of his own property, it becomes acceptable if the latter commanded it in advance. If he

did not give it with the latter's command, it does not become acceptable even if he consents afterwards. If he gave it out of the latter's property, it becomes acceptable when the latter gives the consent (afterwards). A man can give the fitras of the people he is supporting in his home without their advice. If you command your wife [or someone else] to give your fitra, too, and if she (or he) mixes her (or his) wheat with your wheat without your permission and gives the mixture to the poor, she (or he) will have given only her (or his) fitra. For, according to Imâm-i-a'zam she (or he) has used the wheat by mixing the two amounts of wheat with each other, whereby the wheat has become her (or his) property. But it does not become her (or his) property according to the two imâms. If she (or he) has mixed them with your permission, your fitra also has been given according to Imâm-i-a'zam, too 'rahmatullâhi ta'âlâ 'alaihim ajma'în'. If the act were done the other way round, the wife's fitra would have been given, too. For, it is permissible for the husband to give the wife's fitra as a kindness out of his own property without her permission. He can either mix the fitras of his wife and other household and give them without their permission, or weigh the wheat or gold equal to their total at once and give it to one or more poor people. But it is circumspect to prepare them separately and then mix them or give them separately."

If one loses one's property after having had the amount of nisâb, that is, after fitra and Qurbân having become wâjib and hajj having become fard, one is not absolved from them. But zakât and 'ushr are forgiven since the property has gone out of one's possession. But these are not forgiven, either, if one purposely disposes of it.

He who has the nisâb of fitra and Qurbân is called rich. It is wâjib for him to give fitra. And if he is mukallaf, which means discreet, pubert and settled (not safarî), it is also wâjib for him to perform the Qurbân only for himself. It is harâm for him to receive zakât, and wâjib to support his poor mahram female relatives and his poor male relatives who cannot work.

Basic needs include a house, a month's food, three suits each year, underwears, utensils and gadgets used in the house, servants, means of transportation, books on one's profession, whatever their value, and one's debts. They do not have to exist. If they exist they are not included in the calculation of nisâb for zakât, fitra, and Qurbân. Possessions that are not intended for trade and are more than one's need, one's houses rented out, ornamental things in one's house, carpets that are not laid on the floor, spare furniture

that is not used, and tools of art and trade are not considered as necessary property in this respect. They are included in the calculation of nisâb for fitra and Qurbân. If the house one is living in is big, it is sahîh that the spare rooms that one does not use are not included in the nisâb. See the beginning of chapter 4, which is about **Performing the Qurbân**.

For fitra, half a sâ' of wheat or wheat flour is given. Or one sâ' of barley or dates or raisins is given. In the Hanafî Madhhab, at times when wheat, barley and flour are abundant it is better to give their equivalents in gold and silver. During times of scarcity it yields more thawâb to give these things themselves. In the Hanafî Madhhab sâ' is (the volume of) a container with the capacity of one thousand and forty dirhams of millets or lentils. One sâ' is four muds, that is, four menns. Mud and menn are equal and are two ritls. One ritl is a hundred and thirty dirham-i shar'î or 91 mithqâl, so one sâ' is [728] mithqâls, or [1040] dirhams, of lentils. As is explained in the first chapter, one dirham-i-shar'î is 3.36 grams. Hence, one sâ' is 3500 grams. Since barley is lighter than wheat and wheat is lighter than lentils, a container that is filled with one thousand and forty dirhams of barley is larger than one sâ.' So it will be circumspect to give that much in lieu of one sâ.' It will be circumspect to give 364 mithqâls, or five hundred and twenty [520] dirhams, which is seventeen hundred and fifty [1750] grams, of wheat instead of half a sâ.' Thus a little more will have been given. For, half a sâ' of wheat is lighter than 364 mithqâls, or five hundred and twenty dirhams. I, the faqîr -Hüseyn Hilmi Işık- experimented by using a balance and a cylindrical glass measuring jug, and determined that a hundred grams of lentils is a hundred and twenty cubic centimetres. Accordingly, one sâ' is equal to four litres plus one-fifth litre [4.2 litres].

In the Madhâhib of Shâfi'î, Mâlikî and Hanbalî, to give the fitra is fard for a person who has a day's food, and of whether wheat or barley it is always necessary to give one sâ.' In the Shâfi'î Madhhab one sâ' is one-third of a menn less than three menns. One menn is two ritl-i-Irâqî, or 260 dirhams. Then, one sâ' is six hundred and ninety-four [694] dirhams, which is written in **al Anwâr**. In other words, it is one thousand, six hundred and eighty [1680] grams. For, in the Shafi'î Madhhab a dirham is 2.42 grams. One mud is two-third a menn, which is equal two 173 dirhams plus a third dirham. Then, one sâ' is four muds. In the Shâfi'î Madhhab it is not permissible to give gold or silver equivalent of wheat or barley. It is written in Şemseddîn Remlî's fatwâ that it is permissible to

imitate the Hanafî Madhhab and give the wheat's equivalent in silver instead of the wheat itself. The Madhâhib of Mâlikî and Hanbalî are the same as the Shâfi'î Madhhab in this respect, and so one sâ' is five ritls plus one-third a ritl, that is, 694 dirham-i-shar'î, or 1680 grams. These amounts are clearly stated in the books **Kimyâ-yi-se'âdet** and **Manâhij-al ibâd ilel meâd**. The Turkish translation of the Arabic lexical book **Kâmûs wa Okyânûs** states about the entry **Sâ'**: "Sâ' is a measure of capacity that contains four muds of lentils. One mud, an amount of two handfuls, is equal to two ritls in the Hanafî Madhhab. Accordingly, one sâ' is eight ritls. In the Shâfi'î Madhhab one mud is one plus one-third ritls, and so one sâ' is five plus one-third ritls in that Madhhab." And it states about the entry Menn: "Menn, which means **batmann**, is two ritls in every Madhhab."

(Even) if a person does not fast because of a good excuse, he (still) has to give the sadaqa fitr.

Because the sadaqa fitr is small, it is given in silver. It is written in the book **Jawhara**: "When giving the sadaqa fitr, instead of wheat or barley, its value can be given in gold or silver, in fulûs, that is, metal coins [and paper bills], or in any other kind of property." And it is written in **Durr-ul-mukhtâr**: "Its value is given in gold and silver." To explain these statements, Ibni 'Âbidîn says: "The book **Jawhara** says that fulûs and urûz, that is, kinds of property, can be given, yet when 'value' is said gold and silver are usually meant. Also Zeyla'î 'rahmatullâhi ta'âlâ 'alaih' states that it is better to give its value in gold or silver." Then, one should follow the words of the majority and give the fitra in gold or silver. Silver money is not in use now. And the value of paper money has been made dependent upon that of gold. Therefore, the value of silver in terms of the currency is below its value dictated in the rules of Islam. It is given with its value according to the currency so that it will be to the advantage of the poor. In case it is difficult to give them, one should give half a sâ' [1750 grams] of wheat or flour instead of giving other property or paper money. One may also give paper money instead of gold by following the facility we have described in the first chapter. In the Madhâhib of Mâlikî and Hanbalî it is better to give dates, in the Shâfi'î, it is better to give wheat, and in the Hanafî it is better to give what is most valuable.

If it is difficult also to give wheat or flour, one may give bread or corns of equal value. In giving bread and corns, not their weight but their cost or value is considered.

I came to this world at the moment determined in eternity;
When the soul goes out, body, a palace now, in ruins will lie.

My body, something made up of water, soil, and gasses,
Will rot under ground, in its place a heap of earth will lie.

Body will decompose, there remaining a handful of soil,
All its motes falling apart, an endless space will lie.

Anaerobic microbes will fall upon my corpse;
They'll take away my ego, I'll be gone, like a white lie.

Then my senses will come together in this square,
All will rise from their graves, worldover spring will lie.

Yevm-i-(Tublâ) is that time called, all meanings will materialize;
Some of them, plants; some beasts; on the rest humanity will lie.

4 – PERFORMING THE QURBÂN

If a discreet, pubert, free male or female Muslim, settled in a village, in a desert or in a town, has the nisâb amount of property or money in addition to what he or she needs, it becomes wâjib for him or her to slaughter a certain animal with the intention of 'Iyd-al-ad'ha (the 'Iyd of Qurbân) within certain days. The need includes a house with household appliances and three sets of clothings. According to the Shaikhayn (Imâm a'zam and Imâm Abû Yûsuf), a father has to perform the qurbân on his rich child's behalf (if he has a rich child), the expense being taken from the child's property. The meat cannot be eaten by anyone but the child. The meat left over by the child is sold and the money is used to buy durable things, such as clothings for the child. But the fatwâ agrees with Imâm Muhammad's ijtihâd. Accordingly, it is not wâjib for the father to perform the qurbân on his child's behalf, neither at his expense nor the child's. We have explained the nisâb for qurbân in our discourse on the sadaqa fitr in the previous chapter. While explaining about the people (and institutions) that are to be paid zakât, Ibni 'Âbidîn says that no matter how much produce a person gets from his field or year's rental he gets for his field, house, shop, [workshop or lorry], according to Imâm Muhammad, he is poor if it does not meet his yearly needs or if his monthly income does not meet his monthly needs and his debts to others. The fatwâ agrees with this. However, according to the Shaikhayn, i.e. according to Imâm a'zam and Imâm Abû Yûsuf, he is rich. For, the value of the field, which is his property, or of the fixture, meets his needs, and what is left is (at least) the amount of nisâb. Setting apart a sum of each rental he takes, he must save money and give the fitra and perform the qurbân. That is, he must attain great thawâb. If he does not give the fitra and does not perform the qurbân, he is absolved from the sin according to Imâm Muhammad. As is seen, both of the ijtihâds are well put and are matters of compassion for Muslims. If a person in this situation does not give the fitra or perform the qurbân Imâm Muhammad's ijtihâd will save him from torment. A person who can neither get any produce from his field nor rent it out, as well as a man or woman who has property more than necessary but does not have any money, follows Imâm Muhammad's ijtihâd and does not give the fitra or perform the qurbân. If he gives the fitra and performs the qurbân, he attains the thawâb for fitra and qurbân according to the latter ijtihâd. A person who performs an act of worship which is not wâjib for him attains thawâb for supererogatory (nâfila)

worship only. He cannot attain the thawâb for a wâjib. If he dispenses the meat to the poor, he attains thawâb for alms, too. But the thawâb for fitra and qurbân, which are wâjib, is much greater than that which is given for nâfila and sunna. So is the case with every kind of worship. It is written in the books **Mîzân-i-kubrâ** and **Manâhij** that it is sunnat-i-muakkada according to the other three Madhhabs. Anyone who asserts that qurbân is not Islamic will become a disbeliever.

[It written in the books **Hazânat-al-muftîn**, (by Husayn bin Muhammad,) and **Eshbâh**: "If a person has houses and shops or a field and if the rentals he gets or the produce or rent of his field do not suffice to subsist his household, he is poor. It is permissible for him to accept zakât." As is seen, the fatwâ has been given in agreement with Imâm Muhammad.] Ibni 'Âbidîn says: "A person who has a share in a joint-stock company and who cannot withdraw his money performs the qurbân if he has money or property enough for him to perform it."

If a person who has diffculty living on the rent he gets has the amount of nisâb, he should give the fitra and perform the qurbân by saving money. Cooking and preserving all the meat he should save the money for buying meat for a few months and keep it for the next year's fitra and qurbân, and thus should not deprive himself of the thawâb for fitra and qurbân. He who performs the qurbân saves himself from Hell. A hadith-i-sherîf declares: **"The worst of misers is the one who does not perform the qurbân** [though it is wâjib for him to perform the qurbân]**."** Rasûlullah 'sall-Allâhu 'alaihi wa sallam' would kill two animals to perform the qurbân. One was for himself, and the other was for his Umma (Muslims). It is mustahab and produces plenty of thawâb to perform the qurbân by killing one animal on Rasûlullah's 'sall-Allâhu 'alaihi wa sallam' behalf, too.

Qurbân means to sacrifice a sheep, a goat, an ox (or cow), or a camel with the intention of performing the qurbân on one of the first three days of the 'Iyd of Qurbân. Up to seven Muslims at the age of puberty may share a cow or a camel in their performance of the qurbân, buying it collectively. The qurbâns of vow and aqîqa may be joined to them. Although it is possible to later become a shareholder of the qurbân which a rich person has already bought, it would be makrûh. The share of any of the performers should not be less than one-seventh. It is not permissible for eight people to purchase seven cows or for two people to purchase two sheep as qurbân shareholders. For, each person would then own a share in

each qurbân. To avoid interest earning, it is necessary to divide the meat by weighing it out in equal amounts. It is not permissible to divide the meat without weighing it even if the shareholders agree among themselves to waive their rights mutually. For waiving their rights mutually would mean giving presents. It is not permissible to make a gift of something which is sharable before the shares have been divided and distributed to the shareholders. If each of six of the shareholders is given a piece of the skin or a leg of the animal together with its meat, then it is permissible to share without weighing. It is written in the books **Hindiyya** and **Majmuâ-i Zuhdiyya** that the head is categorized as the skin of the animal.

It is written in **Hindiyya**: "It is wâjib, a vow, for a rich or poor person who says before the 'Iyd, 'for the sake of Allah, let it be my vow to slaughter as a qurbân a sheep or that particular sheep' to slaughter one sheep during 'Iyd-al-Adha ('Iyd of qurbân). If a person becomes rich during the days of 'Iyd, although he may have been poor when he made his vow before the days of 'Iyd, then it is wâjib to perform another qurbân for 'Iyd. If the rich man made his vow during the days of 'Iyd and intended to perform it as an 'Iyd qurbân at the time, then one sheep or goat killed as the Qurbân would suffice. If the rich man made his vow before the 'Iyd, then he certainly should perform two qurbâns. The poor kills only one in either case. They cannot sell the vowed qurbâns. The sheep bought and slaughtered during the 'Iyd by a musâfir or a poor person who has not made an intention or a vow to perform the qurbân, becomes nâfila (supererogatory) worship. It is wâjib to kill the animal of qurbân which a rich person bought and intended to perform as a thanksgiving for the blessings of life instead of intending to kill it as the 'Iyd qurbân at the time of purchase." See the following chapter for further details.

The following is an expatiation on the qurbân which is wâjib for a rich person to perform. The qurbân is not performed by giving the animals alive as alms to the poor or to pious or charitable institutions. It is wâjib to kill them (by jugulating them in a manner dictated by Islam). It is written in **Jawhara**: "The thawâb that will be given for the money spent on the qurbân is very much more than the thawâb for a hundred times more [that is, a large amount of] money given as alms." It is permissible to appoint someone to act as one's wakîl (deputy) to (either) buy the animal for qurbân, butcher it and dispense the meat to the poor (or) get these done by someone else, and to give the money to buy the animal or the animal alive to the deputy. But it is mustahab to be present as the

animal is being butchered. It is harâm to kill cocks, hens or wild animals such as deer in the name of qurbân; it means to imitate magians, i.e. fire-worshippers.

It is not wâjib for a person who knows he will be poor or safarî (travelling) on the third day of the 'Iyd to perform the qurbân on the first day. For a person who knows he will be rich on the third day it becomes wâjib to perform it at dawn on the tenth day of (the month of) Dhu'l-hijja, which is the first day of the 'Iyd. It is not determined according to one's being rich or poor or muqîm (settled) or safarî (on a long-distance journey) on the first day of the 'Iyd. Performing the qurbân is not wâjib for hâdjis (Muslim pilgrims) who have journeyed to Mekka from other places. For, they are safarî.[1]

For those who perform the qurbân in cities it becomes wâjib after the 'Iyd prayer. It is not permissible for them to perform the qurbân before the prayer. They may perform it any time before the sunset of the third day. In villages it can also be performed after fajr (dawn) and before the 'Iyd prayer. For those who are in Mekka or Minâ on the first day of the 'Iyd it is not wâjib to perform the 'Iyd prayer.

It is explained at the end of the twenty-first chapter of the fourth fascicle of **Endless Bliss** that it is sunna to clip one's hair, beard and moustache and to trim one's nails and to shave one's armpits and pubes every week. It is written at the end of the chapter about the 'Iyd prayer in Ibni 'Âbidîn 'rahmatullâhi 'alaih': "These acts of sunna should not be delayed during the first ten days of the month of Dhu'l-hijja. The hadîth-i-sherif that states, **'The person who is to perform the qurbân must not clip his hair or trim his nails when the month of Dhu'lhijja begins!'** is not a command. It indicates that it is mustahab to delay these acts until after performing the qurbân. But it is sinful to delay them longer, especially if one has not done them for forty days."

As is seen, for a person who intends to perform the qurbân it is mustahab not to cut his hair, beard, moustache or nails from the first day of the month of Dhu'lhijja till after performing the qurbân. But it is not wâjib. It will not be sinful for him to do these acts, nor will it decrease the thawâb for qurbân. If a person shaves because of a good excuse, his growing the beard on those days will cause fitna, which in turn is by no means permissible.

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[1] See the fifteenth chapter of the fourth fascicle of **Endless Bliss.**

It is not permissible to give away the living animal of qurbân or its value in money as alms. If one gives it as alms, one will have to butcher a second one until the evening of the third day. A person who has not performed the qurbân of 'Iyd or the vowed qurbân by the evening of the third day should give the living animal or its value [in silver or gold] to the poor if he has bought the qurbân animal. If he performs it after the 'Iyd, he cannot eat from the meat; he gives it all to the poor. If the value of all the meat obtained from the animal is less than its value alive, he also gives the difference as alms. If he has not bought it he gives the value of a medium animal of qurbân as alms to the poor. Thus he escapes punishment, although he does not attain the thawâb for performing the qurbân.

If the animal was imperfect before the purchase or if later it has been flawed with some imperfection disqualifying it from being a qurbân though it was suitable for being killed as a qurbân during the purchase, the rich person buys another and butchers it (as the qurbân). If the (animal bought for the) vowed qurbân is imperfect both the rich person and the poor person butcher it. If the animal for the vowed qurbân dies (before being butchered) they do not have to buy another one. It is not permissible to utilize the wool and the milk of an animal for qurbân before it is butchered. Nor is it halâl to slaughter it and eat its meat or let rich people eat it before its prescribed time. These things can be given to the poor. Therefore, the qurbân cannot be performed on the 'Arafa[1] day. It is not halâl for one to eat its meat or to let rich people eat it. After a day has been judged to be the 'Iyd day by testimony of witnesses and as prescribed by the Sharî'a and the 'Iyd prayer and the qurbân have been performed; if it is found out that it was the 'Arafa day, the prayer and the qurbân will be accepted. At places where Ramadân and the month containing the days of 'Iyd cannot be discovered by testimony of witnesses as prescribed by the Sharî'a, the first day of the month of Dhu'lhijja and hence the tenth day, that is, the first day of the 'Iyd of qurbân are calculated by using the **Işık method**, which is explained in the eleventh chapter. The first day of the 'Iyd is the day determined by this calculation. Or it is the next day. It cannot be the previous day. For, the new moon cannot be seen before it appears in the sky. Being prudent, one should perform the qurbân on the second day

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[1] Day previous to the first day of 'Iyd of Qurbân; ninth day of Dhu'lhijja.

of the 'Iyd found by calculation. However, the qurbân whose thawâb will be presented as a gift to the dead should be performed on the day calculated to be the first day. For, this qurbân can be performed on the 'Arafa day, too. A Muslim who has not performed the qurbân should give instructions in his last will before dying to his inheritors that the qurbân be performed on his behalf out of the property he is leaving behind. The willed qurbân is performed on (one of) the 'Iyd days. The person who performs it cannot eat from the meat even if he is poor. He has to give all the meat to the poor. If a person died before having given instructions in his last will, his inheritors or others may butcher an animal of qurbân out of their property any time and present the thawâb to him. The thawâb will belong to the person who performs the qurbân. It can also be presented to the dead person. The person who performs this qurbân can eat from the meat, too.

If two persons' animals for qurbân are confused with each other, the animal killed by each person thinking that it belongs to him becomes his qurbân. If a person usurps or steals someone else's sheep, it is permissible for him to butcher it as a qurbân or to sell it, if he pays the value that the animal had as it was alive, even afterwards. For, when its value is paid, the usurped animal will be his own property. In this case it is also necessary for him to make tawba (penance) for his sin of extortion.

An animal with one blind eye or with one lame leg so that it cannot walk or which has lost a major part of its eye, ear, tail or one of its front or hind legs or which is very feeble, cannot be the qurbân. It is permissible to make the qurbân from an animal which has broken horns or has no horns at all or which is scabby or castrated. A female animal as well as a male one can be killed as the qurbân. If it is a sheep, it produces more thawâb when it is male and is more white in colour than black, but with goats female ones bring more thawâb. Killing a sheep causes more thawâb than killing an ox when they are equal in value. A sheep or a goat has to be over one year of age, an ox has to be over two, and a camel over five. It is permissible if a six-month-old home-bred sheep is big enough and fat enough. If the young that comes out of an animal sacrificed is alive, it must be butchered if you are to eat it. It is not permissible to eat it if it is dead.

It is makrûh to drag an animal to the place of slaughter, to sharpen the knives after getting the animal to the ground, or to kill one animal under the eyes of another.

First a knee-deep hole is dug. The sacrificial animal is

blindfolded with a piece of cloth. It is made to lie on its left side with its face and throat towards the qibla. Its throat is brought near the hole. The ankles of its front legs are fastened together with one of its hind legs. The tekbîr of 'Iyd is said three times. Next the following words are said: "**Bismillâhi Allâhu akbar**." Then, if the animal is not a camel, its throat is cut at any place. While saying "**Bismillâhi**," the "h" must be articulated with due stress and aspiration. In this case it is not necessary to bear in mind that it is Allah's Name. If one does not pronounce the "h" clearly enough, one has to bear in mind that one is saying Allah's Name. If one does not do this either, the animal becomes as unclean as a carrion. It is not halâl to eat it. For this reason, we should not say, "**Allah ta'âlâ**," but should accustom ourselves to articulating the "h" always clearly by saying, "**Allâhu ta'âlâ**." The animal's throat contains the oesophagus, called **merî**, the windpipe, called **hulqûm**, and the jugular veins, called **awdaj**, on both sides. Three of these four pipes must be cut at the same time. It is sunna for the person who jugulates the animal to face the qibla. It is makrûh to cut the whole neck before the animal begins to lose its living temperature, e.i,, before its struggle is over. It is harâm to cut the back of the neck only. Also, it is makrûh to cut off the animal's head or to begin skinning it before its struggle is completely over and it is dead. It is mustahab to do the jugulating yourself if you know how to do it. A woman as well is permitted to do it. If one does not know how to jugulate the animal, it is mustahab to have it jugulated by one's deputy, also to be present at the place during the act, and to say the hundred and sixty-second âyat, **(Inna salâtî)**, of **An'âm** sûra up to the part that reads, "**lâ sharîka leh**."

It is stated as follows in the chapter headlined (Zebâih) in the book **Hindiyya**: "An animal which a Muslim or an Ahl-i-kitâb (a Jew or a Christian), a harbî one or a dhimmî one, has slaughtered by mentioning the Name or an Attribute of Allâhu ta'âlâ in any language, is edible. [Muslims living in the dâr-ul-harb should look for a Muslim Butcher's, and buy the meat sold there with the optimistic opinion that the meat belongs to an animal butchered by a Muslim. It is halâl to eat edible meat such as beef, mutton and chicken only if the animal they are from have been killed in a manner taught by Islam. In other words, it must have been butchered by a Muslim or by an ahl-i-kitâb and by saying the Name of Allah before the jugulation. An animal butchered in a manner incompatible with Islam's teaching becomes a lesh (carrion), and its flesh becomes harâm to eat and to sell. People

who butcher (edible) animals and who sell meat should know this very well. When buying meat it is not necessary to inquire about how the animal was butchered. For, a Muslim should have husn-i-zân (a good opinion) about other Muslims.] An animal killed by a polytheist or an apostate (murtadd) should not be eaten. If the person concerned mentions the name of Jesus or says, 'one of the three gods' as he slaughters the animal, the meat should not be eaten. If he holds that belief but does not express it (as he slaughters the animal), the meat becomes halâl to eat. It is the expression made during the slaughtering which is important. If a person makes such a (polytheistic) expression in the name of a prayer or thanksgiving or if he intends to worship someone other than Allah, e.g. if he says, 'for the sake of Allah and Muhammad,' what he slaughters cannot be eaten." A disbeliever who believes in a (past) prophet and in his **Holy Book**, which was interpolated afterwards, is considered (to be one of) the **Ahl-i-kitâb** (people of the book), even if he says that his prophet is a god or 'son of god' or entreats idols. For, words such as 'god', 'idol', 'lord', 'father' are used also in meanings such as 'helper', one who causes creation,' 'one who is loved very much.' If a person mentions Îsâ (Jesus) 'alaihis-salâm' with these names in these meanings, he does not become a polytheist. In this case, his calling him 'one of the three gods' or 'god' is metaphorical, not literal. If he believes that Îsâ 'alaihis-salâm' has the attribute of **Uluhiyyat** (deity), if he says, for instance, that 'Jesus Christ creates whatever he likes,' he becomes a **mushrik** (polytheist). Some of today's Mûsawîs (Jews), Îsawîs, Nasrânîs and Christians are among the Ahl-i-kitâb. Because they love Îsâ 'alaihis-salâm' very much, they entreat idols and icons so that they intercede for the creation of their wishes. Although it is permissible to eat the animal slaughtered by a Christian who calls Îsâ 'alaihis-salâm' 'god', you should not have such people slaughter your animals or eat the animals slaughtered by them unless there is a strong necessity to do so. Animals slaughtered by disbelievers without a holy book, e.g. by the Nusayrîs living in Syria or by Druzîs, cannot be eaten. It is not necessary to inquire and find out what kind of a person slaughtered the animal. If the Basmala is omitted on purpose, the meat becomes harâm in the Hanafî Madhhab, yet halâl in the Shâfi'î Madhhab.

It is written in **Jawhara**: "When Rasûlullah 'sall-Allâhu 'alaihi wa sallam' went on hajj he took a hundred camels for qurbân. He himself butchered sixty-three of them and then gave the knife to Hadrat Alî, who butchered the rest."

The person who performs the qurbân can eat the meat himself or he can give it to anyone whether rich or poor or a dhimmî. It is mustahab to keep one-third of the meat for the household, to give one-third to the neighbors and one-third to the poor. One may give all the meat to the poor or keep all of it for one's household as well. That it is permissible to give the meat to dhimmî disbelievers as well is written in **Hindiyya** and **Behjet-al-fatâwâ**. The skin is given to a poor person who performs his duty of namâz. It is not given to people not known well enough. Or it is used at home. Or it is given in return for something of permanent use. It is not given for something consumable or money. If the skin or meat is sold, the money is given (to the poor) as alms. The person who butchers the animal cannot be given its skin or some of its meat in return for his labour. It is harâm to eat seven parts of the qurbân or any other (edible) animal: fluid blood, genital organ, tecticles, glands, gall-bladder, the female animal's vagina, and urinary bladder.

It is written in **Hindiyya**: "There are two sorts of dhekât-i-shar'î:[1] optional and indispensable. Optional dhekât is the nahr of the camel, (which means to kill it by stabbing it in the pit of the throat), and the zebh of other domestic animals, (which means to jugulate them). Indispensable dhekât is the jerh of game animals, that is, to kill them by wounding them on any part of their body. It is necessary to utter the name of Allâhu ta'âlâ while performing zebh, or throwing the arrow or firing the bullet or sending off the greyhound upon the game. It is permissible to utter it in another language even if one knows Arabic. An animal cannot be jugulated with the same takbîr that has been uttered for another animal. An animal killed by dhekât-i-shar'î is Islamically clean. If it is an edible animal which is halâl to eat, it can be eaten. Otherwise it cannot be eaten. But it can be utilized in some other way."

If a person makes a qurbân of his own sheep on someone else's behalf, it is not acceptable, even if the latter has ordered him. For, an animal can be killed as the qurbân for someone else only if it is that person's personal property. It would be acceptable if the former person gave the sheep as a present to the latter person, or to the latter's deputy, and the latter person, or his deputy, took possession of the sheep and then gave the sheep back to the

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[1] Islamic Purification of a beast for food by slaughtering it in the prescribed manner.

former, appointing him his deputy to butcher the sheep on his behalf. It is permissible to kill someone else's animal as his qurbân on his behalf without his knowledge. If one kills someone else's animal as one's own qurbân without his permission, it will be acceptable if one pays its value afterwards. If the owner refuses the value and takes the jugulated animal instead, the qurbân will have been performed for the owner. It is never permissible to perform the qurbân from an animal which one is keeping as an amânat (entrusted for safe-keeping), 'âriyat (for temporary use), or hire." If a bullet hits the game and kills it or the game is killed with a stone or club, it cannot be eaten. For, it is necessary for the the animal to bleed.

When buying (an animal for) qurbân one should make one's niyyat as follows: "I intend to buy (an animal for) qurbân which is wâjib to sacrifice on the 'Iyd day." One does not have to make the niyyat again while jugulating the animal. Nor does one have to kill the animal which one has bought with that intention. But the value of the animal one is going to kill instead of that animal should not be less. One might as well not make the niyyat at all while buying the animal. But then it will be necessary to make the niyyat while killing the animal, or when appointing someone one's deputy. A person who wishes to donate his or her qurbân to a charitable society should hand the animal or the money for its purchase to the person appointed by the society and say, "I appoint you as my deputy to butcher my 'Iyd (or nazr) qurbân or have it butchered by someone else you may appoint, and to give its meat and skin to anyone you consider proper." The person in charge (deputy), attaches a number plate to the qurbân which is delivered or bought. He keeps a record of both the name of the owner of the qurbân and the number of the qurbân in a note-book. He appoints the butchers as agents by announcing the names of the owners while the qurbâns are being jugulated. He gives the meat to whomever he wishes and the skin is given to a poor person in charge. That poor person, before the value of the skins he is given reaches the level of nîsâb, gives as a gift all he has to whomever he wishes. And that person sells them, and gives the money thus obtained to whomever he wants. It is permissible for a poor person to sell or give as a gift the skins that are given to him.

If one kills several sheep, all of them become qurbân. Or, according to more dependable information, the best one becomes qurbân and the others become supererogatory.

If a poor person with property below the amount of nisâb of

qurbân intends to kill an animal which is his own property as the qurbân, or if he buys an animal during the ’Iyd of Qurbân but without the intention of qurbân and thereafter intends to kill it as the qurbân, or if he buys it with the intention of qurbân but before the ’Iyd of Qurbân, it is not wâjib for him to kill it. If he kills it, it becomes supererogatory; he can eat its meat, and the meat he gives to the poor becomes alms. If a poor person buys an animal with the intention of qurbân and within the first three days of the ’Iyd; according to this scholarly report, the animal becomes a votive offering (a vow), and it becomes wâjib for him to jugulate it within the first three days of the ’Iyd. According to another report, it does not become a vow; it becomes supererogatory. Whether rich or poor, a person who has performed the qurbân of votive offering cannot eat from the meat, nor can people who are not eligible to receive zakât, nor can he let the rich eat from the meat. If he does not kill the animal within these three days, he gives away the living animal or its equivalent as alms after the ’Iyd. It is permissible also to kill the animal and give the meat as alms, but in case the value of the entire meat is less than the value of the living animal, then the difference should be given as alms.

PERFORMING THE AQÎQA — Aqîqa means to jugulate an animal with the intention of thanking Allâhu ta’âlâ for the blessing of child. When the child is seven days old it is mustahab to name it, to shave its head, to give as alms the hair’s weight in gold or silver (only silver if it is a girl), and to kill two animals of an aqîqa for a boy and one for a girl. It is mustahab in Hanafî Madhhab. The animal for aqîqa should be the same as the animal for qurbân. It can be killed later as well. [It can be killed any time. It can be killed during the ’Iyd of qurbân as well. It is written in **Shir’a**[1] that after his prophethood, Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ performed aqîqa for himself. A baby born dead is not named, nor is the aqîqa performed for him.] The meat can be eaten by the person who has performed the aqîqa and can be given cooked or uncooked to anyone rich or poor. Performing an aqîqa is sunnat-i-muakkada in the Madhhabs of Shâfi’î and Mâlikî. In the Madhhabs of Shâfi’î and Hanbalî, the bones are not thrown away or broken. They are separated from one another by the joints and then put together. Then they are wrapped up in clean, white cloth, and buried. The bones can be broken in the Madhhabs of Hanafî

[1] **Shir’a-t-ul-islâm**, written by Muhammad bin Abû Bakr ‘rahmatullâhi ta’âlâ ’alaih’, (d. 573 [1178 A.D.].)

and Mâlikî. The aqîqa protects children against calamities and illnesses. It increases the children's intercession for their parents. It is written as follows in the first volume of **Mawâhib-i-leduniyya**: "Ibrâhim was born in the eighth year of the Hegira, and on the seventh day Rasûlullah had Ibrâhim's hair cut, gave as alms the hair's weight in silver, and killed two rams as aqîqa. Then he buried the hair."

People who love Thee,
Look at none else, they say;
Those who yearn for Thee,
Heed neither world, they say.

People in love with Thee,
And whose knowledge attains to Thee,
And whose eyes can behold Thee,
Never have bad luck, they say.

A loving soul never dies, they say;
Nor will his flesh rot, they say;
Once a person has lost himself in love,
He will never get lost, they say.

People who bow before commands from Thee,
And who thereby finally attain to Thee,
Will like nightingales make melody,
None'll know their tongue, they say.

People who in Thine love come together,
And who for Thine sake love one another,
Will attain such degree of solidarity,
That death to them is no threat, they say.

If you have wisdom, o my sibling,
Let love of Haqq be all your calling;
One who has not tasted this loving,
Lacks a pure heart, they say.

5 – VOW (NAZR)

Ibni ’Âbidîn ‘rahmatullâhi ’alaih’ says in the chapter about the oath, in the third volume, and at the end of the chapter about the fast, in the second volume of his annotation to **Durr-ul-mukhtâr**:

Nazr, that is, adaq (vow), is a kind of worship. Nazr is performed only for Allâhu ta’âlâ. It is not performed for men. There are two kinds of vowing: absolute nazr, and conditional nazr.

1 - Absolute nazr is, for example, to say, “I shall fast for one year for the sake of Allâhu ta’âlâ.” It is not dependent upon a condition. It becomes wâjib to fulfil it, even if one did not mean it while saying it or it slipped out inadvertently during a conversation. For, in matters of talâq (divorce) and nazr, uttering without an intention or thought is like uttering seriously and intentionally. In fact, if one inadvertently says, “...to fast for a month..,” instead of saying, “Let it be a debt upon me to fast for a day for Allâhu ta’âlâ,” it becomes necessary for one to fast for a month.

Nazr is an act of worship. For, namâz, fasting, going on hajj, manumiting a slave, and other kinds of worship can be vowed. Islam commands the fulfilment of the nazr. It is sinful not to fulfil it. Nazr is like taking an oath. If a person says, “Let it be my nazr,” without naming the thing vowed and without intention, it becomes necessary for him to pay the kaffârat prescribed for an oath. If a person says, “I will fast for Allah’s sake,” without mentioning the number of days of the fast and without intending for anything, or if he intends only for a nazr without thinking of whether or not it is an oath, or if he intends it to be a nazr and not an oath, his fasting becomes a nazr, and he fasts three days. If he intends not for a nazr but for an oath while saying it, it becomes an oath. If he breaks his fast it becomes necessary for him to pay the kaffârat (penalty) prescribed for an oath. If he intends both for a nazr and for an oath, or only for an oath without leaving out the nazr, the fasting becomes both an oath and a nazr. If he breaks the fast, both qadâ and the kaffârat for breaking an oath become necessary.

The thing vowed has to be like one of the kinds of worship that are fard or wâjib and has to be an act of worship by itself. For example, making an ablution or shrouding the dead, which are not acts of worship by themselves, cannot be a nazr. Visiting the invalid, carrying dead Muslims to their graves, making a ghusl, entering mosques, holding the Qur’ân al-kerîm, calling the adhân,

building schools, building mosques are within the area of worship. But none of them is an act of worship by itself. They cannot be vowed. The fard or wâjib which the vowed thing has to be like does not have to be an act of worship by itself. For example, it is permissible to vow donating something to a pious foundation. For, donating something to a pious foundation is like building a mosque for Muslims. Building a mosque is not an act of worship by itself, but donating to a pious foundation is an act of worship by itself. For example, making an ablution is not an act of worship by itself, but it is a condition (to be fulfilled for the acceptability) of namâz, which is an act of worship by itself. Likewise, shrouding a dead Muslim is a condition for the acceptability of the namâz of janâza. The satr-i-awrat of the dead is a condition of the namâz of janâza.

One has to fulfil the absolute nazr immediately, even if one is poor. If the state of death is felt before one has fulfilled it, one has to add fulfilment of kaffârat to one's will. It is permissible as well to delay it without a good excuse. When fulfilling the nazr, one does not have to fulfil also the things which one has designated to do. For example, if one has vowed to give a certain amount of money to a particular poor person at a certain place and time, or to perform namâz at a certain place, one does not have to observe these particulars. Yet one cannot change the vowed amount. However, if one vowes to give gold coins to a certain poor person for the sake of Allâhu ta'âlâ, one will have to give them to that particular poor person. For, one's not determining the (number of) gold coins or the (amount of) property one is going to give shows that one wants to designate the poor person singled out.

2 - Conditional vow. When the condition one has desired occurs one has to fulfil the nazr. [It is written in **Fatâwâ-i-Khayriyya** that it is permissible to pay the kaffârat prescribed for an oath instead of fulfilling the nazr. It is written at the end of the chapter about fasting in Tahtawî's 'rahmatullâhi ta'âlâ 'alaih' annotation to the commentary entitled **Imdâd-ul-Fettâh**: "It is deduced from an âyat-i-kerîma and from a hadîth-i-sherîf that nazr is permissible. If one has made the nazr depend upon the occurrence of a condition one desires, one will have to fulfil the nazr when the condition one has stipulated occurs. If one has stipulated a condition one does not desire to occur, when the condition one does not desire occurs one fulfils the nazr if one likes, if the nazr is hajj, fasting, alms, or supererogatory namâz. If one does not want to fulfil the nazr of this kind, one may pay the

kaffârat for an oath instead. For example, if one says, “May it be my nazr to give a hundred pounds as alms for Allah’s sake if I ever speak to Alî again,” and then speaks to Alî, he has a choice between giving the alms or paying the kaffârat prescribed for an oath. But if one has said, “May my wife be divorced...,” one will have divorced one’s wife when one speaks to Alî, and it will not be permissible to pay the kaffârat for an oath instead. It is not permissible to fulfil the nazr dependent upon a condition before the condition occurs. For example, if one has said, “May it be my nazr to give so and so much money as alms for Allah’s sake and present the thawâb for it to the soul of Hadrat Sayyid Ahmad Bedevî if my such and such ill relative recovers,” it is not permissible to fulfil the nazr before the ill person recovers. One has to fulfil it after the ill person recovers. Like in the former case, when fulfilling the dependent nazr it is not necessary to fulfil the specifications one has made as to time, identity of the poor person, number of the poor people, or kind of money. The dependent nazr shouldn’t be fulfilled in return for the occurrence of the stipulated condition. It should be fulfilled as an act of gratitude to Allâhu ta’âlâ. It is like making the sajda (prostration) of gratitude to Him.”]

That it is obligatory to fulfil a nazr is declared in the Qur’ân al-kerîm and in a hadîth-i-sherîf, and there is ijmâ’i-umma on this. The twenty-ninth âyat-i-kerîma of Hajj Sûra declares: “**They must fulfil their vows!**” It is, therefore, wâjib to fulfil the nazr. Some (’ulamâ) said that it is fard.

Fasting, salât [namâz], alms, i’tikâf, manumiting slaves, and hajj, —even by walking—, can be vowed. For, each of these is an act of worship by itself and is like either a fard or a wâjib. For example, it is fard to manumit a slave for the kaffârat of fasting. Going on hajj by walking is fard for those Meccans who can. The worship here is not walking, but it is the hajj. And i’tikâf is like the sitting posture in the last rak’at of namâz. As for waqf (donation to a pious foundation), it is fard for the state to build a mosque for Muslims in every city by using the funds reserved for this purpose in the Beytulmâl. If the state does not build it, it becomes fard for Muslims.

When the nazrs of i’tikâf, hajj, salât, fasting, alms are not dependent, it is permissible to fulfil them without observing the specifications as to time, place, identity of the poor, and kind of money. For example, if one vows to give certain silver coins to a certain poor person in Mekka, on, let us say, Friday, it is

permissible for one to give other silver coins to another person at some other place and time instead. It is permissible to perform the vowed hajj, salât, i’tikâf, or fasting before the time specified during the vow. But it will not be acceptable even if the number of days is one day fewer (than the vowed number). The dependent nazr cannot be fulfilled before the condition it depends on occurs. One can still make changes as to the poor person (to be given the alms), place, and kind of money.

If a person who has made it his nazr to fast every day during the month of Rajab becomes ill and cannot fulfil it, he will have to make qadâ by fasting for one month later, as with Ramadân.

If something unlike any fard or wâjib is vowed, it is not necessary to fulfil it. The type of worship it is like has to be a fard-i-’ayn. It is not necessary to fulfil the nazr which is like a fard-i-kifâya. An example of this is visiting a sick person. Entering a mosque cannot be vowed, though it is fard to enter the Majid-i-harâm for tawâf (visiting) or to enter a mosque after the imâm for Friday prayer. For, entering a mosque is not an act of worship by itself, but it is a part of an act of worship. Though it is fard to help one’s needy parents, visiting one’s parents cannot be vowed because it is not an act of worship by itself.

To sum up, when something is vowed its fulfilment is necessary if it has five conditions:

I - It has to belong to the class of a fard-i-’ayn or wâjib.

II - It has to be an act of worship by itself.

III - It shouldn’t be a sin in itself. It is permissible to vow to fast on the ’Iyd day of qurbân. For, fasting is not a sin in itself. In this case one will have to fast some other day. Vowing something which is harâm becomes an oath. It is sinful to fulfil it. For example, when one vows to kill so and so, one does not kill so and so, but pays the kaffârat for an oath, instead.

IV - It is not sahîh to vow to do something which is already fard for one to do. For example, hajj is already fard for a rich person who vows to become a hadji. To vow to become a hadji is to inform that one is going to make the hajj that is fard. For, he who makes a supererogatory hajj cannot become a hadji. Because it is not sahîh to vow the hajj which is fard, in case a vow of this sort has been made it is fard for the rich person to make hajj only once. It is not necessary for him to go again for the fulfilment of his vow.

If a rich person vows to kill a sheep as a qurbân on one of the days of the ’Iyd of qurbân, he will have to kill two sheep, one for

the vow and the other for the ’Iyd of qurbân. If this person means the qurbân of the ’Iyd when vowing, he kills only one sheep as the qurbân. If he vowed it before the days of ’Iyd, he will have to kill two, whatsoever his intention. For, to mean something which is not yet wâjib for one to do is not to inform that one is going to do it. Also, if a person who becomes rich on one of the ’Iyd days, (say, on the third day), vowed to kill a sheep when he was poor on one of the ’Iyd days, (say, on the first day), he has to kill two sheep, for the same reason. When a rich person who has not become a hadji vows to make a hajj, this case is similar to a rich person’s vowing a qurbân on one of the days of ’Iyd of qurbân. For, performing the hajj, like performing the qurbân, is of two kinds: performing the hajj which is fard; and performing the supererogatory hajj. If, when vowing to go on hajj, he does not mean to become a hadji, that is, to perform the hajj which is fard, he will have to perform the hajj twice. For, if the person for whom it is wâjib to perform the qurbân does not mean the wâjib when vowing the qurbân, it will come to mean the supererogatory qurbân and so the vow will be sahîh. Likewise, if the hajj which is fard is not meant when vowing to go on hajj, it will come to mean a supererogatory hajj. So the vow will be sahîh, and the rich person will have to go on hajj twice, one for the fard, and one for the vow. The case is not so with vowing for the fast in Ramadân or, for example, vowing early afternoon prayer or vowing to become a hadji, i.e. vowing the hajj-at-ul-islâm. Only the fard is meant when they are said. They have no supererogatory forms. Because the person vowing them means only the fard, the vow is not sahîh. This means to say that something which can be both fard and supererogatory can be vowed. Its fard form shouldn’t be meant when vowing. This applies to vowing namâz, fasting, hajj, and qurbân. A person who vows to fast in Ramadân does not have to fulfil anything. He only performs his fast of Ramadân, which is fard.

It is permissible for the poor as well as for the rich to vow a qurbân. Qurbân means a sheep, goat, ox, or camel killed on one of the first three days of the ’Iyd, which is wâjib for the rich and supererogatory for the poor. A person who has vowed ten sheep kills ten sheep within the three days of the ’Iyd. If they are not killed within that time, he gives them alive as alms if he still possesses them. For, the commandment is to kill only one sheep. That the vowed number is ten shows that he did not state that he would perform the qurbân which is wâjib. The vowed qurbân must be performed on one of the certain three days. If the animals are

killed before these days the qurbân has not been performed and the nazr has not been fulfilled. If the vowed qurbân is not performed by the end of the certain three days, its equivalent in gold or silver or the animal itself is given alive as alms to the poor. If he kills it after the certain three days (’Iyd days) and dispenses the meat to the poor, the value of the meat shouldn’t be less than the value of the animal was when it was alive. If it is less, he will have to dispense the difference in money to the poor. But if a person vows to kill a sheep instead of mentioning the name of qurbân, he may kill it at any place and at any time he likes, including the days of the of ’Iyd of qurbân, even if he has appointed the time and the place.

V - The thing vowed should be a piece of property, and it shouldn’t be more than one’s property or belong to someone else. For example, if a person who has a hundred pounds vows to give a thousand pounds as alms, he will have to give a hundred pounds. If he vows to give a certain number of gold coins, and then if he loses the gold coins, the nazr falls.

It is permissible to vow to read the Qur’ân al-kerîm or to visit the Kâ’ba. It is permissible to vow to say a certain number of salawâts for our Prophet ‘sall-Allâhu ’alaihi wa sallam’, [e.g. to say the prayer of **Delâil-i-khayrât** or **Jâliyet-ul-ekdâr**.]

[It is not permissible to vow a cock by saying, “I will make a qurbân of a cock or kill a cock for Allah’s sake.” For, the cock is not an animal for qurbân. A person who wants to vow a cock must say, “I will kill a cock and give it to the poor for Allah’s sake,” and must give the cock, alive or after killing it, to the poor. Thus, he will have vowed not the qurbân but the alms.] If a person who has vowed alms has also mentioned its amount, he gives that amount. If he has not mentioned the amount he pays the kaffârat for an oath, which is to give half a sâ’ of wheat or its equivalent to each of ten poor people.

When one’s relative or friend is back from a long journey or when one is visited by a person whom one loves and respects, it is not permissible to kill an animal out of joy or reverence to the visitor or for thanks. The animal can be vowed before or after the arrival of an expected guest, and killed as a vow, that is, for Allah’s sake; in this case the meat is dispensed to the poor; the rich are not allowed to eat it. [If one says “qurbân” when vowing the animal, one has to kill it on the ’Iyd of qurbân.] Also, it is permissible to kill an animal with the intention of serving a special meal to the expected visitor.

It is permissible to fulfil the absolute nazr before the appointed time. But it is not sahîh to fulfil the dependent nazr before the desired condition comes into being. A person who has vowed something as alms can give something else of the same value or its equivalent. He who has woved to fast in a certain month has to fast every day in that month, and has to make qadâ of the omitted days. If he has not appointed the name of the month, he fasts for one month [thirty days], which he can complete in several months. If an invalid person vows that he will fast for a month for Allah's sake and then dies before recovering from his illness, nothing is required. If he recovers even one day before his death and does not fast on that day, he wills an isqât for the whole month.

Whether rich or poor, a person cannot eat from the meat of the animal killed as the fulfilment of his vow, nor can he give it to people to whom it is not permissible to pay zakât. Nor can he let his parents, children, wife, [or husband, if the person is a woman], eat from the meat, even if they are poor. If he should eat or let those people eat from it, he dispenses the equivalent of the meat eaten as alms to the poor. Of his relatives and household, whether young or old, anyone to whom he is permitted to pay his zakât, can eat from the meat. But the rich ones cannot. If they do, the performer of the vow will have to dispense the equivalent of what they have eaten to the poor.

Ibni 'Âbidîn 'rahmatullâhi 'alaih' says at the end of his discourse on zakât for sheep: In zakât, 'ushr, kharâj, fitra, nazr, and in all kinds of kaffârat except manumiting slaves, it is permissible to give the equivalent of property which is not mithlî even if the property itself exists. [Property of zakât can be given as an equivalent for (other) property of zakât. Other property, (i.e. property that is not property of zakât,) cannot be given. Any property can be given for other kinds of property.] It is permissible to give three fat sheep instead of four thin sheep. For things that are mithlî, i.e., things that can be measured by weight or volume, their equivalent of the same kind cannot be given. For example, it is not permissible to give four gold coins of high carat instead of five gold coins of lower carat or four pounds of good wheat instead of five pounds of wheat of poorer quality. It is necessary to give the same amount (five gold coins or five pounds of wheat) of the better quality, too. But it is permissible to give their equivalent of some other kind. For, when goods in whose comparison there is fâidh (interest, usury) are of different kinds, it is permissible to give, without delay, less or fewer of the better ones and more of the poorer ones. In qurbân and in

emancipating slaves equivalents cannot be given. For, these two require shedding blood and rescuing from slavery, not giving property. Only after the 'Iyd days are over can the equivalent of the animal for qurbân be dispensed to the poor. A person who has vowed to kill two medium sheep as the qurbân cannot kill a big ram as the qurbân which is equal to them in value. He has to kill two. [In lieu of sheep (vowed) the same number of goats can be killed, and an equal number of cattle can be offered in place of camels vowed. They do not have to be equal in weight or value.] But he who has vowed to give two medium sheep as alms (to the poor) can give a big ram which is equal to the two sheep in value. A person who has vowed a tin of low quality dates cannot give half a tin of good dates which are equal in value. For, when they are of the same kind, if their amounts are not equal when being changed for each other the act involves fâidh. It would be permissible if he gave half a tin of good barley which is of equal value.

A vow to kill an animal must be for Allah's sake without any stipulation. It is permissible to give the meat to the poor and to present the thawâb for it to a Walî or to an exalted religious person. Then, one must pray for the realization of one's wish for the sake of the alms and the Walî (to whose soul one has presented the thawâb for the alms one has given to the poor). In other words, one must do one's vows as exemplified: "If I attain this wish of mine, I will kill a sheep for Allah's sake at Eyyûb,[1] give the meat to those poor people who are neighbors to Hadrat Khâlid,[2] and present the thawâb to his soul." An animal vowed

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[1] A district in Istanbul. It is situated alongside the Golden Horn. It embodies the blessed grave of hadrat Khâlid Eyyûb al-Ansârî 'radiy-Allâhu ta'âlâ 'anh', one of the Sahâba. See below.

[2] When the Messenger of Allah completed his painful trek from Mekka and finally arrived in Medina, —the onerous migration has been termed 'Hijrat' (Hegira) ever since,— all the Muslims living in Medina met the blessed Prophet at the gate of the holy city, each and every one of them begging the Messenger of Allah to honour their house and be their guest. Lest anyone should be offended, the Prophet said to them, "I shall be the guest of the person in front of whose house my camel kneels down." The camel, with the blessed Prophet on its back, walked for a while and stopped and knelt down in front of hadrat Khâlid Eyyûb al-Ansârî's house. So the Prophet stayed in his house. Years later this fortunate Sahabî joined an Islamic expedition and went to Istanbul to conquer the city. Yet the siege ended in failure and he was one of those who attained martyrdom. His blessed grave is at Eyyûb, Istanbul. There is a shrine over his grave and a splendid mosque was built by the shrine. Every day thousands of Muslims visit the shrine and the mosque.

with a stipulation of this sort cannot be killed before the realization of the wish. The animal shouldn't be killed near the grave. Also, our religion does not permit such things as fastening pieces of cloth or string on tombs or burning candles on tombs. These things are done by Christians. Candles shouldn't be burned on graves. If candles are taken to the poor people who serve the tombs and who pray there, it will cause thawâb of alms. And this thawâb will be presented to the dead people there. Dead people do not need candles. A Believer's grave is a garden of Paradise. It is in nûrs. And a disbeliever's grave is a ditch of Hell. It is full of torment. Candles will not rescue him from that torment.

It is written at the end of the chapter about the fast in **Durr-ul-mukhtâr**: "Ignorant people vow such things as money and candles for the dead. They think thereby they will become closer to the great Awliyâ and get benefits from them. These vows are harâm and useless. They should be vowed for Allâhu ta'âlâ and given to the poor Muslims (serving and worshipping) in the mausoleums." Explaining these statements, Ibni 'Âbidîn says: "It is harâm to go to the grave of one of the great Awliyâ and say, 'If you find my lost property, —cure my sick relative, solve my such and such problem,— I will give this money —or food— for your sake, I will burn a candle and leave it here for you.' For, a vow is done only for Allah's sake. It is disbelief to expect something from a dead person independently from Allâhu ta'âlâ. It annihilates one's îmân. [He who goes to a church, sacred spring, grave or tomb and asks for something from Hadrat Îsâ (Jesus), Mariam (Mary), or the Awliyâ and prays to them becomes a disbeliever. One should ask from Allâhu ta'âlâ so that He will give for their sake. Hadrat Abdulhakîm Arwâsî 'quddisa sirruh' used to say that such expressions as "The Grandfather who gives promptly" are very ugly and cause disbelief.] One should say, 'O my Allah! I vow that if You cure my sick relative I will give this money, for Your sake, to the poor people living near that Walî's tomb and present the thawâb to the Walî's soul.' It is harâm for the rich to accept things given in fulfilment of such vows. Property which is not dispensed as alms to the poor is not acceptable as a vow. For example, such vows as burning candles on graves, lighting candles (or lights) on minarets, saying mawlids loudly in mosques like songs and dance music are not acceptable. It is harâm and useless to pay or take money for such services." It is written at the end of **'Uqûd-ud-**

durriyya[1] that it is bid'a to use more lights than usual in mosques on sacred nights. The same is written in the chapter about the rules concerning a mosque in **Eshbâh**.

Some people make a vow by saying, "**Table of Zachariah**." They put 40 kinds of fruit on a table, and then they invite their neighbors and close friends, mostly women, to eat from this table. They expect that the wishes they make as they eat at these tables will come true. Such a vow is bid'at. It is a Jewish custom. It is harâm for anyone, except a poor person, to eat from something that has been vowed. To cause bid'at and harâm is a grave sin.

It is permissible to vow to kill an animal when laying a foundation or when one's sick relative recovers and then to dispense the meat as alms to the poor. It produces thawâb for alms.

[1] An abridged version of Hamîd Konevî's book **Fatâwâ-i-Hamîdiyya**, written by Ibni 'Âbidîn Sayyid Muhammad Emîn bin 'Umar bin 'Abd-ul-'Azîz 'rahmatullâhi 'alaih', (1198 [1748 A.D.] – 1252 [1836], Damascus.)

6 – OATHS—KAFFÂRAT FOR AN OATH

Yemîn (oath) means strength. It indicates strength in a statement, intention or desire to do or not to do something. Also, the words “half”, “hilf”, and “qasem” can be used instead of “yemîn.” There are three kinds of yemîn:

1 - **Ghamûs** oath, [which incurs sinfulness and going to Hell]. It is to knowingly swear a false, lying oath on something in the past. It is a grave sin. In order to repent, tawba and istighfâr are necessary, but not kaffârat.

2 - **Mun’aqida** oath. It is to swear an oath to do or not to do something in future. There are three types of it. In all three types, breach of the oath necessitates kaffârat. But kaffârat is not paid before the breach:

A) There is no given time. If a person swears that he will beat Ahmad, the oath is not broken if he does not beat him as long as both are alive. The oath is broken when either one dies. For, when he swears that he will beat Ahmad, it does not become wâjib for him to do so till his death. If he swears that he will not beat Ahmad and does not beat him till after his death, the oath eternally will never be broken. For, in this case it immediately becomes wâjib for him not to beat Ahmad. The oath is broken if he beats him once. He pays kaffârat, and the oath expires. If he beats him a second time he does not pay kaffârat again.

B) The time is appointed. If one breaks the oath before the time comes, kaffârat becomes necessary. The oath is not broken if one dies before the appointed time comes.

C) The oath which is made dependent upon a condition. It is to make the fulfilment of one’s oath dependent on one’s or someone else’s doing or not doing something. It is to swear to (do or not to do) something else by saying, “If you do this...,” in order to prevent oneself or someone else from doing something intended, or by saying, “If you don’t...,” in order to get someone sitting to do something. This oath’s being sahîh (valid) requires in the first case the person’s doing it at once (if the time has not been appointed) or by the appointed time (if the time has been appointed); and in the second case the person’s not doing it or failing to do it. If the first person is incapable of doing what is to be done the oath does not become sahîh. If the time has not been appointed and if he (the browbeaten person) gives up doing it first and then intends a second time and does it, the oath becomes sahîh in the second case. But it does not become sahîh in the first case. When a person says

to another, "I swear (by Allah) that I will beat you if you don't leave this place and come home," if the latter stands up immediately, goes to the toilet, puts on his clothes, goes home, then comes back to the former place to get his key and then goes home again, the former's oath does not become sahîh. For, these things done by the latter are not considered as matters delaying going home. So it is not necessary for the former to beat him. If the husband says to the wife who is getting ready to go out, "You will be divorced if you go out," and if she first gives up going out and then gets ready again and goes out later, she will not be divorced. If a man who attempts to beat his child is told, "I swear (by Allah) that I will not speak with you any more if you beat the child!" and if the man sits for a while and then beats the child, it is not necessary for the swearer not to speak with him any more. If a person asks another to stay and eat with him and if the latter swears that he will not eat with him and leaves the place, saying, "If I eat with you...," the oath will fall when he comes back and they eat together.

3 - **Laghw** [vain] oath. It is to swear an oath mistakenly by making a wrong guess on something in the past. This does not put one into a sinful state; nor does it entail kaffârat.

In all three kinds, making or violating an oath because of forgetfulness or under duress is like making or violating it knowingly and willingly.

For a mun'aqida oath to be sahîh its fulfilment must be possible mentally and actually. If a certain period of time is appointed, fulfilment of the oath should be possible until the end of the appointed time. For, fulfilment of the oath becomes wâjib at the end of the appointed time. It is sinful to swear for something impossible. When a person says to another, "I swear (by Allah) that I will give you your due tomorrow morning," the oath will not become sahîh if either one of them dies before morning. For, it is impossible to fulfil the oath by the appointed time. When a person swears, "Today I will drink up the water in this large jug," the oath will not be sahîh if there is no water in the jug or if the water is poured out before the day is over. If he has not appointed a time, his oath will not be sahîh if there is no water in the jug; but if the water which is in the jug is poured out after the oath, the oath will be sahîh and will have been violated, and kaffârat will be necessary, because he has not drunk it. For, although fulfilment of an oath for which there is no appointed time becomes wâjib when one is about to die, it is wâjib to do it whenever one can, because

at the time of death it will be very difficult to fulfil it, or to pay kaffârat or will the payment of kaffârat if one cannot fulfil it.

If a person swears that he will ascend to heavens or that he will change a certain piece of stone into gold, he becomes hânith (a perjurer) and pays kaffârat, because he cannot do it. For, these things are not impossible mentally, although as of today they are beyond the scope of science. As angels can and some Prophets 'salawâtullâhi 'alaihim ajma'în' did ascend to heavens, likewise the atoms that make up a piece of stone can change into atoms of gold.

While explaining the talâq (divorce),[1] Ibni 'Âbidîn says: "If a person swears, 'May everything which is halâl for me be harâm if I do such and such a thing,' twice for two different things, his wife becomes divorced once when he does the first thing. And when he does the second thing she becomes divorced a second time. For, his wife's not being in his nikâh as he does the second thing does not prevent his second oath from being sahîh. Because she was in his nikâh when he swore the second oath, his second oath became sahîh."

It is written in the books **Multaqâ** and **Durr-ul-mukhtâr**: "There are three different ways of making an oath: By the Names of Allâhu ta'âlâ; by stipulating something that causes disbelief as a condition; and by making a divorce certain [such is by saying, 'May I be divorced from my wife if...']. Making an oath by using the Names of Allâhu ta'âlâ is done either by letters or by words. If one of the prefixes "b", "tâ", and "wa" is added at the beginning and the "esre"[2] is added at the end of the Name, it becomes an oath. An oath is binding only if it is made by using the names of Allâhu ta'âlâ. A Muslim's oath cannot be made by other things. When making an oath by one of the Names of Allâhu ta'âlâ which can be given to men also, such as Halîm, Alîm, Jewâd, it is necessary to intend and keep in mind that it is Allah's Name. It is permissible also to make an oath with some of His Attributes which have been traditionally used in oaths. Like saying, 'I swear on the Almightiness [Greatness, Compassionateness] of Allâhu ta'âlâ...." An oath cannot be made on the Qur'ân al kerîm, on the Prophet 'salawâtullâhi 'alaihim ajma'în', or on Kâ'ba. It is not an oath to swear on one's honour, e.g. to say, 'Upon my honour, I promise,'

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[1] Please see the fifteenth chapter of the sixth fascicle of **Endless Bliss** for 'talâq'.

[2] The vowel point placed under a consonant to indicate its being followed by "i" in pronunciation, like in "be".

or ‘Upon my honour it is the truth.’ It is harâm to swear on one’s life or head. It is an oath to say, ‘I swear by Allah that....” It is an oath to say, ‘I promise by Allah.’ Also, it is an oath to use the words “qasem”, “half”, or “yemîn” in one’s promise, whether by using the simple present tense or present continuous tense in the promise, or to say, ‘Esh-hadu,’ and not to say Allah’s name after it. If one says, “Be it my oath” or “Be it my vow” or “Be it my promise,” it becomes an oath.

It is an oath to utter something that causes disbelief, such as to say, ‘You are a disbeliever, or a Jew, or a Christian, or atheist if you do this,’ or to say the same in the future tense: ‘You will be....’, or to say, ‘May you be (a disbeliever, etc)’ The oath becomes breached when the second person does that thing. If the first person said it with the intention of an oath he has to pay kaffârat. If he said it because he wanted the latter to be a disbeliever, he (the sworn person) becomes a disbeliever. For, a person who gives consent to disbelief becomes a disbeliver. He who calls a Muslim a disbeliever becomes a disbeliever himself, even if he did not mean it. He who gives a positive answer to a person who calls him a disbeliever, such as to say, ‘Yes, sir,’ becomes a disbeliever. He should either not answer it at all or refuse it.

If a person says, ‘If I enter this room, may it be halâl to take interest, (or may everything be harâm for me to eat),’ it becomes an oath of the second kind. For, interest is harâm in every religion. It is disbelief to say, ‘May it be halâl.’ And also it is disbelief to say, ‘May everything be harâm,’ because it means: ‘May it be harâm to eat and drink such things as bread and water, which are halâl to eat and drink in every religion.’ If a person utters words that cause disbelief with the intention of swearing an oath, he will not become a disbeliever, but he will have sworn.

It is not an oath to say, ‘If you do this, may Allah’s wrath (or curse) be upon you, (may you be an adulterer, a thief, a wine drinker, an interest charger or usurer).’ For, it is not customary among Muslims to swear by using these words. It is not an oath to say, ‘May it be a right upon me.’ But it is an oath to say, ‘For the sake of Allah.’ It means for the right of Allah. It is an oath to say, ‘I take an oath by Allah.’ It is written in **Ibni ’Âbidîn** that if a person stands up to show reverence to another person passing by him though the latter, upon seeing his attempt to stand up, deprecates, ‘Don’t, for Allah’s sake,’ these adjurations do not incur any liability on the latter. However, the former should respect Allah’s name and should not do the thing which he is

adjured not to do. That comes to mean that a person who has adjured another to discontinue doing or not doing something has not made an oath. But if he adjures him to begin doing something, he has made an oath. If the latter does not do it the person who has made the adjuration will have to pay kaffârat. He who says, 'I swear on my wife's being divorced,' has not made an oath. If a person swears by making his own property harâm, it does not become harâm. For example, if he says, 'May my clothes be harâm for me if...,' his clothes do not become harâm. But he will have to pay kaffârat when he uses his clothes. If he says, 'May everything halâl be harâm for me if...,' not only will everything that can be eaten or drunk be harâm for him when he breaks the oath, but also, if he is married, the divorce termed talâq bâin will take place and his wife will get one divorce, even if he did not intend (to divorce his wife). He will not have to also pay kaffârat. If he intended to divorce her three times, she would be divorced three times. So is the case with saying, 'May my wife be divorced (May she be harâm for me) if I do this!' If an unmarried person says, 'May everything be harâm if...,' he has made an oath. If he eats and drinks from his property after breaking his oath, kaffârat becomes necessary.

If a person vows something that fulfils the conditions for being vowed, it becomes a nazr if he is willing to do it when he vows it. It becomes wâjib for him to do it. For example, if he says, 'May it be my nazr to fast for one month for Allah's sake,' or, 'May it be my nazr to fast a month if I find what I have lost,' it becomes wâjib for him to fast for a month when he finds the lost thing. He cannot escape it by paying kaffârat.

If he makes the nazr depend on a condition which he does not want to do, e.g. if he says, 'May it be my nazr to fast for a month if I steal so and so's wallet,' he fasts for one month or pays the kaffârat for an oath without having stolen it.

If a person says, 'Inshâ-Allah,'[1] when making an oath, it will not become an oath.

It becomes an oath to say, 'For the Qur'ân's sake,' or to put one's hand on the Qur'ân, or to point to the Qur'ân and say, 'For the sake of this.' For, this kind of oath has been customary.

It is written in **Durr-ul-mukhtâr** that in the Shâfi'î Madhhab the lexical meaning of the word expressing the act which is made

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[1] 'If Allah wills it to be so.'

dependent on an oath is taken into account. In the Mâlikî Madhhab its meaning used in the Qur'ân al-kerîm is taken into account. In the Hanbalî Madhhab the meaning intended by the sworn person is taken into account. And in the Hanafî Madhhab its meaning is taken in the sense in which it has been customary to use it in the concerned country or countries of the time. For example, when a person swears that he will never get on an animal's back, his oath will not be broken if he gets on a man's back. For, although man is decribed as **Haywân-i-nâtiq** (the reasoning and articulating animal) in dictionaries, it has not been customary to call man animal. If a person who has sworn that he will not sit on a post sits on a mountain, his oath will not be broken. Mountains are called 'posts' in the Qur'ân al-kerîm, yet it has not been customary to call them so. If a person who has sworn that he will not demolish a house spoils a spider's web, his oath will not be broken. For, although a spider's web is called a house in the Qur'ân al-kerîm, it has been customary to call it a web. If the sworn person says that when he swore he thought of the word in its meaning as used in the Qur'ân al-kerîm or in its lexical sense, his statement is to be held bona fide. On the other hand, if the word has been used figuratively, that is, not with its original meaning, his saying that he meant its customary figurative meaning is not accepted as bona fide. If a person who has sworn not to buy anything with fulûs buys something with gold his oath will not be broken. For, fulûs is the name of the copper coin which has been monetized. He cannot claim that he meant to say, 'I will not buy anything.' Even if it is customary to say so, the meaning of 'fulûs' is clear. Custom cannot change the established meaning. If a person swears that he will not go out through the door and then goes out through the window or swears that he will not beat with a whip and then beats with a stick, his oath will not be broken. While explaining things that are harâm, Ibni 'Âbidîn says that he who swore that he would not look at someone's face can look at his image in a mirror. For, the image is not the person himself but his likeness. [Likewise, what is heard through a loudspeaker or on the radio is not the human voice, but its likeness].

He who has sworn to commit a harâm or not do an act of worship breaks his oath and then pays the kaffârat.

For the kaffârat of an oath you manumit a slave. Or you give a set of underwear, large enough to cover the entire body, to each of ten poor men or women, or feed ten poor people twice one day. It is also acceptable to feed one poor person twice a day for ten days.

It is not permissible to feed other ten people the same day for the second time. Therefore, if you feed twenty poor people in the morning, for instance, you will have to to feed ten of them in the evening or to give them the equivalent property of sadaqa-i fitr. It is not obligatory to feed all the poor people on the same day. You may feed some other ones or former ones the next day. Also, it is permissible to give a poor person a set of underwear every day for ten days or to feed him twice a day for ten days or once a day for twenty days. Also, it is acceptable to give half a sâ' of wheat or flour or bread to each of the ten poor people once for one day or to one poor person once a day for ten days. Material or other property [such as a cloth, a towel, a handkerchief, socks, stockings, meat, rice, underwear, slippers, medicine or religious, scientific or moral books] or gold or silver money of the same value can be given, instead. If you give ten days' amount to one poor person in one day, all of it will be for one day. If you give hundreds of sâ' to each of ten poor individuals in one day, it will still be the kaffârat for one oath. The same rules apply to the kaffârat of an oath paid on behalf of a dead person. It is permissible to make someone your deputy to feed the poor or to give the money, and to pay him afterwards. He who cannot do any of these three things, fasts for three successive days, instead. For each of these fasts he must intend (before the end of) the previous night. If a woman begins menstruating before completing the three days of fast, she does not continue fasting. She fasts for three more days after the menstruation is over. Kaffârat for Ramadân's fast is different. It is not correct to give the kaffârat before the Hins, i.e., before breach of the oath takes place. It is sinful to delay the kaffârat for (a breach of) oath. It is written in **Dâmâd**: A separate kaffârat is made for each (broken) oath. If a person says, "Vallahi verrahmâni verrahîmi, I will not do such and such a thing," he will have made three oaths. If he does that thing three kaffârats will be necessary. It is written in **Bedâyi'** and **Hindiyya** that the poor people to be fed may be given the fulûs [paper money] to buy the food themselves. It is necessary to intend while giving the kaffârat.

Rasûlullah 'sall-Allâhu 'alaihi wa sallam' stated: **"Most tradesmen and market-dealers are fâjir** (dissolute, sinful)**!"** When he was asked the reason he said: **"Their buying and selling is not halâl. For, they sin by swearing and lying very often."** In another hadîth-i-sherîf he stated: **"A person who cheats someone out of his property by perjury will find Allâhu ta'âlâ wrathful on the Resurrection Day."** [Please see the second page of the fifteenth

chapter of the third part of the Turkish version.] In another hadîth-i-sherîf: **"A person with îmân may commit any fault. But he cannot betray or lie."** In another hadîth-i-sherîf: **"Lying is permissible at three occasions: In war** [and also when it is necessary to protect oneself and other Muslims against the harm of enemies of religion]**; in passing one Muslim's words on to another in order to reconcile them; and in handling one's wives."** It is permissible to conceal a Muslim's sins, or his hiding place or property from a cruel person. Lying is permissible (when it is done) in order to prevent a quarrel between two Muslims or between a wife and a husband; to protect one's property; to prevent a Muslim's secret or fault from being revealed; or to prevent other things like these that are harâm. It is like eating meat Islamically unclean lest one should die.

It is written in **Tarîqat-i-Muhammadiyya**: "Our Prophet 'sall-Allâhu 'alaihi wa sallam' sated: **'Perjury is a grave sin.'** He stated in another hadîth-i-sherîf: **'Hell is the destination of person who cheats a Muslim out of his rights by perjury.'** Uttering an oath very often, even if you tell the truth, means to show disrespect for the Name of Allâhu ta'âlâ and yemîn. It is utterly loathsome to swear flippantly with such names. So is the case with swearing in songs, plays, and parties.

If you break several oaths you have to make a kaffârat for each one. Kaffârat, like zakât, is worship through property. It is permissible to give your property through a deputy to the poor. But you have to make a niyya (intention) when preparing the property or at least before it is given to the poor."

It is written on the four hundred and seventh page of the book **Ibdâ**: "A hadîth-i-sherîf states: **'Do not swear an oath by saying, "Upon my father!" An oath can be sworn only with Allah's Name.'** Another hadîth-i-sherîf, which exists in Abû Dâwûd, reads: **'He who swears on his honour and chastity, which has been entrusted to him** (by Allah), **is not in our community.'** A hadîth-i-sherîf, communicated by Tirmuzî 'rahmatullâhi ta'âlâ 'alaih', reads: **'He who swears with any name other than that of Allah, becomes a disbeliever.'** Oaths sworn by using such expressions as 'on your father,' 'on your life,' 'on your head,' 'on Kâ'ba,' 'on your (my) honour,' and 'on the soil (on the grave) of such and such a Walî' have become so badly rife."

It is written in **Uyûn-ul-basâir**: "It is not sahîh (valid) for a disbeliever to take an oath or to pay kaffârat." Hence, it is understood that adjurations made by disbelievers or renegades are

not sahîh. So it is not necessary to do what they ask you to do by adjuration.

Hadîqa states in its discourse on the afflictions incurred through speech: “It is not permissible to ask someone for something mundane by saying, ‘**For Allah’s sake**.’ It is declared in a hadîth-i-sherîf that such people are accursed.” As is written in **Durer wa Ghurer**, in the fifth volume of **Ibni ’Âbidîn**, and in **Hadîqa**, if a Muslim tells you to do something ‘for Allah’s sake,’ it is not necessary to do it, that is, it is not sinful not to do it. But it is good to do it if it is something mubâh (permitted), especially if it is Tâ’at (something which you will anyway be rewarded for in the Hereafter). It is harâm to pray through the right of the Prophet or for the sake of a dead or living Walî. For no one has any rights upon Allâhu ta’âlâ. This is the ijtihâd of some savants, but such a prayer is permissible if your intention is: ‘O my Allah! For the right Thou hast given them....’ For, the forty-seventh âyat-i-kerîma of Rûm Sûra purports: “**It has been a right upon Us to help Believers**.” And the twelfth âyat of An’âm Sûra, which purports, “**Allâhu ta’âlâ has made it an obligation for Himself to have compassion for His slaves**,” shows that through His Compassion and Kindness He has bestowed rights upon His beloved ones. It is written in a fatwâ of **Bezzâziyya** that it is permissible to pray through Prophets or through the Awliyâ whether they are dead or living. These documentaries clearly show that Wahhabis’ attack upon the Ahl-as-sunna on these grounds is quite wrong.

7 – PERFORMING THE HAJJ[1]

Hajj is Islam's fifth essential. In other words, it is fard to go and visit the Kâ'ba-i-mu'azzama once in a lifetime. The second and later hajjes are supererogatory. The lexical meaning of hajj is 'to mean, to do, to wish.' In Islam it means to visit a certain place and to do certain things within a certain time. These certain things are called **Menâsik**. Each of these menâsik, (that is, singular form of menâsik), is called **Nusuk**. Nusuk means worship. Hajj and 'Umra also are called nusuk. In the tenth year of the Hegira Rasûlullah 'sall-Allâhu 'alaihi wa sallam' went on hajj on his camel named Kuswâ. It is written at the end of the chapter about Friday Prayer in the book **Durr-ul-mukhtâr**: "A person who goes (to the Kâ'ba) both for trade and for hajj gets thawâb if hajj occupies the major part of his intention. [The amount of the thawâb varies in proportion to the scope of the intention for hajj.] If his intention for trade is greater or if the two intentions are equal, he cannot attain the thawâb for hajj. However, if he fulfils its precepts he will have performed the fard only. Thus, he will save himself from the torment for not having done the fard. So is the case with the thawâb for any worship or pious deed which is done for ostentation."

A person who performs the hajj is called a hadji. There are three kinds of hadjis:

1 - Mufrid hadji: a person who intends only for hajj when putting on the ihrâm. Inhabitants of Mekka can be mufrid hadji only.

2 - Qârin hadji: a person who intends both for hajj and for 'umra. First he performs the tawâf[2] and sâ'i[3] for 'umra and then, without taking off his ihrâm and without cutting his hair, performs the tawâf and sâ'i again, this time for hajj on the days prescribed for hajj. There is more thawâb for the qirân hajj than for either of the other two kinds. (Qirân hajj is the hajj performed by a Muslim called Qârin hadji.)

3 - Mutamatti' hadji: he puts on the ihrâm to perform 'umra in the months of hajj, performs the tawâf and sâ'i for 'umra, cuts his hair, and takes off his ihrâm. He does not go back to his hometown (or country) but, on the day of Terwiya,[4] or earlier, in the same

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[1] The book **Ni'met-i-islâm**, in Turkish, contains detailed information about the hajj.

[2] Visiting, and going around the blessed Kâ'ba at Mekka.

[3] Performance of the course between Safa and Merva.

[4] The eighth day of Dhu'l-hijja. The day previous to 'Arafa, which, in turn, is previous to the first day of the 'Iyd of Qurbân.

year, wears ihrâm for hajj, and performs the hajj like a mufrid hadji. Only, he performs the sâ'i after the tawâf-i-ziyârat, too. Thawâb for this tamattu' hajj is more than that of the ifrâd hajj (first kind). The months for hajj are Shawwâl and Dhu'l-qa'da, plus the first ten days of Dhu'l-hijja. It is wâjib for the qârin and mutamatti' hadjis to perform the thanksgiving qurbân. If they do not, they will have to fast on the seventh, eighth and ninth days of Dhu'l-hijja and also for seven more days after the 'Iyd (of qurbân). All these days add up to ten days. Meccans cannot be qârin or mutamatti' hadji.

'Umra means the performance of the tawâf and sâ'i with the ihrâm on and the shaving or cutting of the hair on any day of the year except the five days allotted for hajj. Doing 'umra once in a lifetime is sunna muakkad in (the Madhhabs of) Hanafî and Mâlikî, while it is fard in the Madhhabs of Shâfi'î and Hanbalî. The hajj which is fard is called **Hajj-i akber** or **Hajjat-ul-Islâm**. 'Umra is called **Hajj-i asghâr**.

The hajj has conditions, farâid (fards), wâjibs, and sunnas. It has two kinds of conditions:

A - Conditions for incumbency. They are eight according to Imâm a'zam:

1 - To be a Muslim.

2 - For a person living in a country of disbelievers to hear (or know) that the hajj is fard.

3 - To be discreet.

4 - To have reached the age of puberty.

5 - To be free; not to be a slave.

6 - In addition to the necessary livelihood, to have halâl money sufficient for the round trip for hajj and also for the subsistence of the household who will be left at home. The prescribed necessary livelihood here is the same as that which is prescribed for zakât. [Please see the first chapter!] He who has harâm property is liable not for the hajj but for returning the property to its rightful owner (or owners). A person who goes on hajj with harâm property will escape the torment for not having performed the hajj but will not attain the thawâb for hajj. It is similar to performing namâz at a usurped place. Such people should not be discouraged from worshipping. Sinfulness does not debar acts of worship. A person who doubts whether his money is halâl must, as written in **The Fatwâ of Yahyâ Efendi**, borrow money from a person whose earnings are halâl, and spend it on the hajj to attain the thawâb. And then he must pay his debt out of his doubtful money. [Pious Muslims have always followed this procedure to buy their needs.]

7 - For the time of hajj to have arrived. The time of hajj consists of five days: the 'Arafa day, and the (four) days of 'Iyd. The time to be spent on the way being taken into consideration, it becomes fard for a person who has the conditions for incumbency at the beginning of this time (for hajj) to go and perform the hajj once in his lifetime. It is fard for a person who is in the Dâr-ul-Islâm and who has property to go on hajj when the time for hajj comes, even if he does not know whether or not the hajj is fard.

8 - Not to be too blind, too ill, too old, or too disabled to go on hajj.

B - Conditions for performance are four:

1 - Not to be imprisoned or debarred.

2 - For the route to be taken for hajj and for the place of hajj to be safe and protected. The hajj is not fard when it is compulsory to use the dangerous one of the means of transport, ship, train, bus or plane. During years when highwaymen attack the hadjis' lives and possessions it is not fard to go on hajj. But the murder of a few hadjis is not an excuse (for not going on hajj). On hajj, it is permissible to pay the tax or bribes charged for entering the country. Bribery is always permissible when it is for saving one's life or property. But it is sinful to ask for bribe.

3 - According to three Madhhabs, (the Madhhabs of Hânafî, Mâlikî and Hanbalî,) to go on hajj, a woman who lives in a place three-days-plus-three-nights' way (by walking) from Mekka has to be accompanied by her husband or by an eternally mahram relative whom she can never marry, who has reached or is on the verge of puberty and discretion, and who is not a fâsiq Muslim or an apostate. (A fâsiq Muslim is one who commits a grave sin habitually and openly.) Moreover, the woman must be rich enough to meet his expenses too. A hadîth-i-sherîf, which is quoted by Bezzâr in **Kunûz ud-deqâiq**, reads: "**A woman cannot go on hajj without her mahram accompanying her**." Because we live in an age when mischief and wrongdoing are on the increase, one should not travel with a person who is one's relative through marriage or ridâ.[1] The husband cannot prevent his rich wife from going on hajj with a mahram relative of hers once (in her lifetime). For, a husband does not have the right to prohibit his wife wrom doing the farâid. It is written in

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[1] A sucking from the same breasts with another. Becoming another person's brother or sister by way of this milk-tie. There is detailed information about ridâ' in the seventh chapter of the sixth fascicle of **Endless Bliss**.

the book **al-Hadîqa**, at the end of the chapter about the afflictions incurred through speech: "The husband can prohibit his wife from going on nâfila (supererogatory) hajj (even) with her mahram relative. If she goes with his permission, her livelihood will be provided by her husband throughout the course of her going and coming back, but not if she goes without his permission." Please see the section dealing with a marriage contract with stipulated conditions in the twelfth chapter. According to the Shâfi'î Madhhab, a woman without a mahram relative accompanying her can go on a hajj which is fard for her in company with two other women. It will be an excuse ('udhr) for a woman whose mahram dies on the way of hajj to imitate the Shâfi'î Madhhab.

4 - For a woman not to be in the state of 'iddat, i.e., not to be newly divorced.

By the year a person has the conditions for performance as well as the conditions for incumbency the hajj becomes fard for him. If he dies on his way for hajj in the same year, he becomes absolved from the hajj. In this case he does not have to request in his last will the sending of a deputy. But he becomes sinful if he does not go that year. If he puts off going on hajj until a few years later, he becomes gravely sinful (fâsiq). For, venial sins insisted on develop into grave sins. If he becomes ill, imprisoned, or disabled on his way for hajj or at home in one of the later years, he will have to send a substitute in his place from his country, or request it in his last will. If he recovers after sending the substitute, he will have to go in person, too. If he goes on hajj in a later year, his sin for delaying the hajj will be forgiven. According to Imâm Muhammad and Imâm Shâfi'î, it is permissible to put it off until later years.

Going on hajj is not fard for a person who does not have one of the conditions for incumbency. It is not necessary to provide the conditions for incumbency. For example, it is not necessary to accept the money or property that is presented to him so that he can perform the hajj. If a person has the conditions for incumbency but lacks one of the conditions for performance, it is not fard for him to go on hajj, but if this excuse continues till his death he has to send a Muslim as a deputy in his place or command in his last will that someone should be sent in his place. There are three kinds of acts of worship:

1 - Acts of worship that are only done physically, such as salât, fasting, reading the Qur'ân al-kerîm, and dhikr. No one can perform acts of physical worship on someone else's behalf. Everyone has to do them themselves. They cannot depute anyone.

2 - Acts of worship that are done only with property. Examples of these types of worship are zakât of property, zakât of body, i.e., sadaqa fitr, zakât of landed property, i.e., 'ushr, kaffârats such as emancipating slaves and feeding or clothing the poor. Regardless of whether or not a person has an 'udhr,[1] his worships that are to be done with property can be done by someone else, even by a disbeliever called zimmî, on his behalf, with his permission and with his property.

3 - Acts of worship that are done both physically and with property, such as the hajj that is fard. As long as a person is alive, it is only when he has an 'udhr that someone else can perform the hajj on his behalf with his permission and with his money. If the hajj has not yet become fard for a person, he can send a deputy for the supererogatory hajj even when he has no 'udhr.

A person can give as a gift the thawâb for the acts of worship he has performed to a dead or alive person, such as salât, fasting, sadaqa, Qur'ân al-kerîm (read of recited), dhikr, tawâf, hajj, 'umra, visiting the graves of Awliyâ and giving a shroud for a dead person, whether they be fard or supererogatory for him, after having done or while doing any one of them. But in the Madhhabs of Shâfi'î and Mâlikî the thawâb of worships that are done only physically cannot be given to someone else as a present. Imâm-i Subkî[2] and the later Shâfi'î savants 'rahmatullâhi ta'âlâ 'alaihim ajma'în' said that these also could be given as gifts. It is useless to have your worships done by payment or to sell the thawâb of your worships to someone. It is a payment if you bargain before the worship is done. And it means to sell the worship if you bargain after doing the worship.

When assuming the (garb termed) ihrâm, the deputy has to intend with his heart for the person who has deputed him. A person who has the debt of hajj must command his executor by giving him the name of the deputy who will perform the hajj on his behalf after his death. The dying person or his appointed non-inheriting executor cannot make one of the inheritors his deputy unless the other inheritors approve of it. Unless a person countenances it, it is

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[1] Excuse, (being incapable, imperfect.)

[2] 'Alî bin 'Abd-ul-Kâfî Hâlidh Taqiyy-ud-dîn Subkî 'rahmatullâhi ta'âlâ 'alaih', 683 [1284 A.D.], Subk, Egypt-756 [1355], Cairo,) also known as Abul Hasan Subkî, chief of the Egyptian and Damascene scholars of his time in the Shâfi'î Madhhab. He wrote more than a hundred and fifty Islamic books.

not permissible to send someone else for hajj on his behalf. However, if the dead person has not made a will in this respect, that is, if he has not reserved money for hajj, his heir can go on hajj on his behalf or send someone else with the money from his share of the inheritance. Thus he will have saved his father or mother from the debt of hajj. If the hajj has become fard for himself, too, he has to go for himself in addition. But saving his parents from the debt of hajj will make him attain the thawâb for ten acts of hajj. According to the Madhhabs of Hanafî and Hanbalî, the (trip for) hajj must be started from the city they used to live in. For example, if a person living in Istanbul loses his father stationed in Erzurum, and if he wants to send someone as his father's deputy on hajj though his father did not request it in his will, it is fard for him to send the deputy from Erzurum. It is not permissible to send the deputy from some other place, in the Madhhab of Hanafî. But in the Shafi'î Madhhab it is permissible to send the deputy from any place except Mîqât.[1] In fact, it is permissible in the Shâfi'î Madhhab to give money to someone going on hajj and tell him to find a deputy in Mekka and have him perform the hajj from Mîqât on behalf of your father. The Hanafîs with little money can follow the Shâfi'î Madhhab and make someone in Mekka deputize for their father, mother, or other close relative who has not commanded it in his or her last will. Yet while giving the money they have to make their niyya: "I am following Imâm Shâfi'î."

If a person performs hajj on behalf of someone else without his permission, the hajj belongs to him. That is, if he has the debt of hajj he has paid it. He can present its thawâb to the person he has deputized for. Any Muslim can present the thawâb for any of his worships to any other Muslim dead or alive. But the person presented with the thawâb (of hajj) will not be absolved from his debt of hajj. The executor (wâsî), i.e. the person who has been enjoined on the will, sends the person deputed (by the owner of the will). And the deputy cannot send someone else on his behalf, unless he has been told to do as he pleases. If the owner of the will has added the amendment, "My deputy or someone else," to his will, or if he has not appointed a certain deputy while enjoining his will on his executor, his executor may go himself as well as send someone else for the hajj. It is not permissible for a person for whom it is not fard to go on hajj to send a deputy for the fard hajj

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[1] Place where the hadjis assume the garb that is called ihrâm and worn during the rites of pilgrimage.

on his behalf. A child who is discreet but below the age of puberty can be a deputy. It is not permissible to appoint a deputy by giving him a certain sum of money in the name of a payment (for his work). Estimating the cost of the journey and his subsistence during the course of the hajj, you say to the deputy, "With this money...." The money given to him now is not a payment but an endowment. It is written in **Eshbâh**: "The money left is returned to the inheritors. If the inheritors tell the deputy that they appoint him also as a deputy to present the rest of the money to himself and to accept it for himself, the deputy does as he is told." Though it is permissible in the Hanafî Madhhab for a person who has not made his own hajj and has not reached the age of puberty or for a woman to be a deputy, it is not permissible in the Shafi'î Madhhab. It is permissible for a deputy who is a hadji himself[1] not to come back and to remain in Mekka after making the hajj on someone else's behalf. But it is better to command him to come back. In '**Uqûd-ud Durriyya**, it is written: "Although it is permissible for a poor person who has not performed his own hajj yet to perform hajj instead of someone else, as he does so, the hajj will become fard for him also as soon as he acrives in the (area called) **Hill**. In this case he will have to stay in Mekka and to perform his own hajj the next year. On the other hand, due to his staying and not returning home, after the previous hajj, the dead person's hajj will remain incomplete. If the deputy is told to do whatever he wishes, then the deputy may also delegate someone else." [If he finds a deputy in Mekka he performs his own hajj also in the same year.] A hadji's going on hajj as a deputy (for someone else) is better than his going on hajj once more for himself.

If a poor person goes on supererogatory hajj, when he reaches Mîqât he becomes like a Meccan and, if he can walk, it becomes fard for him to make the hajj, and he makes his niyyat to perform the fard. If he makes niyya (intends) to make supererogatory hajj, it becomes necessary for him to make hajj again. Not so is the case with a deputy who is poor. For, he has reached there, and will go back, at someone else's expense. If a deputy, (that is, a person appointed by a rich person to make hajj on behalf of the rich person), has not made hajj for himself, he must stay in Mekka and one year later make the hajj for himself, too. The thawâb for a rich person's hajj is greater than the thawâb for a poor one's. If the poor person dies of hunger or exhaustion on his way to hajj, he

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[1] i.e. a person who has performed the hajj that is fard for him.

becomes sinful. Going on hajj is makrûh for a poor person who will be in need and will have to ask for help from others on the way. A deputy who has been given a choice may give the money to another person and send him instead, regardless of whether or not he becomes ill on the way. But he cannot send another person if he has not been given permission. A hadji who dies before standing on Arafât does not have to command in his last will that his hajj should be made, if his going on hajj and dying happen in the same year when the hajj becomes fard for him. But if he goes on hajj a few years after (the hajj became fard for him), it will be wâjib for him to command in his last will that a deputy should be sent from his own city. A deputy may as well be sent from the place he has appointed or from any place whence it is possible to send one with the money he has allotted. Words used in a will must be chosen with care.

In case one-third of a person's property would sufficiently meet the expense (of sending a deputy on hajj from his town), it is sinful for him, (while dying), to will the amount of money that will not suffice for sending a deputy from his town or to command that a deputy should be sent from some other place. If he did not appoint a place as the starting point or the amount of money, a deputy is sent from his town, even if he died on his way for hajj. No one can go on hajj with his own money on behalf of a person who commanded while dying that his hajj should be performed (after his death). If anyone does, the hajj performed will belong to the performer himself. The dead person's debt of hajj will not have been paid. The person who makes hajj may present its thawâb to the dead person after the hajj. The dead person's hajj is performed by using one-third of the property left by him, or the money which he reserved from one-third of his property, and by starting the journey from his town. The deputy may as well add some of his own money to this. If the money reserved is insufficient a deputy can be sent from any place offering convenience. If it is still impossible, the (dead person's) will becomes invalid. If a person is alive but disabled (for hajj), he has to give the person he deputes enough money to enable him to go on hajj from his town. If the dead person did not add the stipulation that the hajj should be done by using the property he left behind, his inheritor may send a deputy with his own property, and as he does so he may or may not intend to later collect it from one-third of the heritage. If he has the intention to collect it from the dead person's property, he cannot go on hajj himself. In the hajjes of tamattu' and qirân the

cost of the qurbân falls on the deputy. If the deputy swears that he has made the hajj he is to be believed. No one can ask him to return the money. A deputy who has been perfidious can be dismissed before the assumption of the ihrâm.

A person for whom zakât and hajj become fard, first goes on hajj, immediately, and then pays zakât for what is left from the hajj. If he cannot go on hajj, he pays the zakât for the entire amount. After the time for hajj has come, that is, after the hajj has become fard, it is not permissible to spend the money for hajj buying things one needs, such as a house or a year's supply of food. One has to go on hajj. However, it is permissible to buy them before the time of hajj comes. For, hajj does not become fard before its time comes.

[It becomes fard to pay zakât a year after your property reaches the amount of nisâb. The time when the payment of zakât becomes fard is different for different people. If this time is before the time of hajj, you pay the zakât for your entire property or money and then spend the remainder going on hajj. If the time for the payment of zakât coincides with or follows the time of hajj, then going on hajj takes priority. After the hajj, zakât is paid for the remaining money.]

It is necessary to provide the conditions for performing the hajj. But a woman does not have to get married or imitate the Shâfi'î Madhhab in order to go on hajj. For, the husband does not have to take his wife along for hajj. Nor is it necessary for her to contract a temporary marriage with a man going on hajj. This is written in **Durr-ul-muntaqâ**.

If a person lacking one of the conditions for incumbency goes on hajj, he has made a supererogatory hajj. He will have to make hajj again when the conditions are completed. If a person lacking one of the conditions for performance goes on hajj, he has performed the fard.

A woman cannot go on hajj without a man to accompany her. Her hajj will be accepted if she goes, but it is harâm. When she goes with her husband (or eternally mahram relative), it is harâm for her to join men in a hotel, during the tawâf and sâ'i, or while pelting stones, which would not only annihilate the thawâb for hajj but would also cost her a grave sin. A woman without any eternally mahram relatives sends a deputy in her place when she is old, when she cannot see any more, or when she catches an uncurable disease. She does not send a deputy before then.

We have heard about some heretical and unlearned men of religion doing things counter to Islamic books and making subversive statements. News of this sort should not estrange us from going on hajj, for that would mean to deprive ourselves of the honour of having performed this important fard; and when we go on hajj we should avoid following and believing those lâ-madhhabî people.

HAJJ HAS THREE FARÂID (FARDS):

Hajj is not sahîh if any one of these three farâid is omitted.

1 - **Ihrâm**, which means to impose some prohibitions on yourself, consists of niyya (intention) and dhikr [telbiya]. It is similar to the takbîr of iftitâh as you begin performing a namâz. It is symbolized by a special garment which, like large bath towels, consists of two white pieces of cloth, one of which is wrapped around that part of the body below the waist and the other is wrapped around the shoulders. It is not fastened with thread or secured with knots. It is for this reason that these two pieces of cloth assumed have been termed 'ihrâm'. Before beginning the Tawâf, it is sunnat to wrap the Ihrâm round the upper part of body, with the middle part of the ihrâm under the right arm and its two ends on the left shoulder.

For people who come (to Mekka) from long distances for hajj, 'umra, trade, or for any other purpose, it is harâm to go through the places called Mîqât and enter the Harem of the blessed city of Mekka, without the ihrâm on. Any person who passes by (the Mîqât without the ihrâm on) has to return to the Mîqât and put on the ihrâm. If he does not put on the ihrâm he will have to kill an animal of qurbân. Between the places called **Mîqât** and the Harem-i-Mekka, is called **Hil**. People who intend to remain in the Hil for some business while going through the Mîqât and people who live in the Hil are permitted to enter the Harem without the ihrâm on, except when they intend for hajj. For example, the city of Jeddah is in the Hil. The **Harem** is an area a little larger than the blessed city of Mekka and its boundaries are determined by stones set up by Prophet Ibrâhîm 'alaihis-salâm'. The stones have been replaced many times. The Masjid-i-harâm is also called the **Harem-i-Kâ'ba** or the **Harem-i-sherîf**. For hajj the inhabitants of the Hil put on the ihrâm in the Hil and those who live in the Harem put it on in the Harem. The ihrâm is assumed in a prescribed manner when passing through the places of Mîqât, intending in the prescribed way and saying the prescribed prayers,

which is a performance termed 'telbiya'. It is permissible —even better— to assume the ihrâm before reaching the places of Mîqât or even in your hometown (or country). It is permissible, but it is makrûh, to assume it before the months of hajj. The cities of Mekka and Medina are called the **Haremeyn-i-sherîfeyn**.

A person wearing the ihrâm is prohibited from certain things. These prohibitions include killing wild game living on land, wearing sewn clothes, shaving any part of the body, having sexual intercourse, fighting or quarrelling, using perfumes, cutting the nails, (for men) wearing mests or shoes, covering the head, washing the head with marshmallows, wearing gloves or socks, entering a bath, plucking or uprooting grass or trees growing by themselves, and killing the lice found on one's body or showing them to others so that they will kill them. Those who do these knowingly or unknowingly or by forgetting will have to pay a penalty by killing a qurbân or giving alms. The owner can eat the meat of his qurbân of tamattu' or qirân. But he cannot eat the meat of qurbân which he has killed in payment of a penalty. If a qârin hadji commits a fault which necessitates one qurbân in mufrid hajj, it becomes necessary for him to perform two qurbâns, one of which is for the 'umra.

While in the ihrâm it is permissible to kill fleas or all kinds of flies, lice found on someone else, animals that are harmful or that would attack a man, such as mice, snakes, scorpions, wolves, kites, to wash your head with soap, to wear clogs or other shoes with open upperpart, to have your (aching) tooth extracted, to scratch yourself slightly provided you shall not kill lice or lose hair, to wear coloured ihrâm, to make ghusl, to sit in the shade of a roof, a dent or an umbrella, provided your head shall not touch it, to cover your head with things that are not normally used as headcovers, [such as bowls and trays], to put a parcel or the like on your head, to wear a belt or sash round your waist, to carry a money purse, a sword or a gun tied on your waist, to wear a ring, to pluck or uproot the vegetables or trees sown or planted by people, to fight the enemy.

It is necessary for women to cover their heads and permissible to veil their face, provided the veil shall not touch the skin, to wear sewn clothes, mests, stockings, and ornaments under cover.

2 - On the day of 'Arafa to stay for **Waqfa** at any place of 'Arafât other than the place called Wâdi-yi Urana. Like all others, you stand, or sit if you cannot stand, towards the ehl imâm, and listen to the prayers he will say. Then you can sit or lie down.

A person arriving late for hajj goes directly to ’Arafat. He does not have to perform the **Tawâf-i-qudûm**. If a hadji stays at ’Arafât for a while within the time between the azân for the early afternoon prayer on the day of ’Arafa and the time of morning prayer on the first ’Iyd day or if he passes through ’Arafât with his ihrâm on or if after putting on the ihrâm falls asleep or faints and is carried on a stretcher or something else and is made to carry out the menâsik or if he gets sick or faints before putting on the ihrâm and someone else assumes the ihrâm and also carries out the menâsik on his behalf before he wakes up or if he stays at ’Arafât not knowing that it is ’Arafa day, his hajj becomes sahîh and he becomes absolved from the tawâf-i-qudûm. It is not necessary to know that the place is ’Arafat or to intend. A person who is not at ’Arafât or who does not go through ’Arafât on that special day or night cannot be a hadji, nor can one who flies by there on a plane. The hajj performed a day earlier, as Wahhabîs have been doing for some years, is not acceptable. A new moon sets close to the setting point of the sun and after the time of sunset. Its puffed up limb is on the western side. At **terbî’** (i.e, on the seventh night)[1] the moon sets six hours later than the sun. At **bedr-i tam** (on the 14th night)[2] the moon becomes a full sphere and it rises as the sun sets, and sets in the morning. The daily newspaper **Türkiye** of July 28, 1987, on a Tuesday, stated that “In the city of Kayseri, on Sunday the new moon of the month of Dhu’lhijja was not seen. On Monday, the sun set at 19:50 p.m. At 20:20 p.m., the new moon was seen and it set at 20:55 p.m.” According to this information (in 1987), the first day of the month of Dhu’lhijja was Tuesday. Therefore, the ninth day of the month (Wednesday) was the day of ’Arafa. But the Wahhabi government took the hadjis to ’Arafât on Monday and they prevented the hadjis who wanted to go there again on Wednesday.”

3 - **To make Tawâf-i-ziyârat** to the Kâ’ba. Tawâf means to go round the Kâ’ba-i-mu’azzama within the Masjîd-i-harâm. Seven circumambulations are made, four of which are fard and three are wâjib. It is permissible to make the tawâf by taking the well of Zemzem and the Maqâm-i-Ibrâhîm within the circle. It is written in the book **Eshbâh** that it is better for women not to keep close to the Kâ’ba while making the tawâf. If there is the risk of the men touching the women, it is necessary for those who are in the Shâfi’î

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[1] First quadrature.
[2] Full moon.

Madhhab to imitate either the Hanafî or the Malikî Madhhab. It is not permissible to make the tawâf outside of the Masjîd-i-harâm. It is fard in itself to make a niyya (to intend) for the tawâf. Also, it is fard to make tawâf-i-ziyârat after (staying at) 'Arafât. If the adhân is called as you are making the tawâf or the sa'i, you put it off and complete it after performing the namâz. It is written in Tahtâwî's annotation to the book **Marâqilfalâh**: "There is the fear that a person who goes round any mosque other than the Kâ'ba for worship may become a disbeliever."

THERE ARE TWENTY-ONE ACTS THAT ARE WÂJIB TO PERFORM DURING THE HAJJ:

1 - To make sa'i, that is, to walk in the prescribed way, seven times between the mounts of Safâ and Merva, provided this will be after the tawâf-i-qudûm and within the months of hajj. Sa'i without tawâf is not sahîh (valid).

2 - To perform (the rite termed) waqfa (pause) at Muzdalfa on the way back from 'Arafât. Muzdalfa is the place where the Prophet Âdam first met the blessed Hawwa (Eve).

3 - To pelt the devil, i.e. to throw clean pebbles, or anything on which it is permissible to make tayammum, for three days at three different places at Minâ.

4 - Before taking off the ihrâm, to shave at least one-fourth of your head or to cut or have someone cut at least three centimetres of your hair. Failure to find a barber or a shaver is not an excuse. In fact, a person without any hair or with a sore on his head has to pass the shaver around his head without touching his head. Women do not shave or clip their hair. But they cut a little of it with scissors.

5 - For those hadjis who are **Âfâqî**, i.e., who come to Mekka from places that are farther away from the places called Mîqât, to make **Tawâf-i-sadr**, i.e. **Tawâf-i-wadâ'** (farewell visit), the day before departing from Mekka. This tawâf is not wâjib for a menstruating woman. This tawâf does not contain a ramal and a sa'y after it.

6 - To stay at 'Arafât for a while after sunset. It is written in the books **Jawhara-t-un-nayyira** and **Majmû'a-i-Zuhdiyya**: "A person who leaves 'Arafât before sunset will have to kill a qurbân. You can stay at 'Arafât when you are junub.

7 - During tawâf-i-ziyârat, to make three more circumambulations after going round the Kâ'ba-i-mu'azzama four

times. The night after tawâf-i-ziyârat is spent at Minâ.

8 - Not to be without an ablution or a ghusl while making the tawâf.

9 - For your clothes to be clean.

10 - To make the circumambulations by taking the place called the Hatîm within the circle while making the tawâf.

11 - To make the tawâf with the Kâ'ba-i-mu'azzama always on your left hand side.

12 - To have accomplished the tawâf-i-ziyârat by the sunset of the third day of 'Iyd.

13 - To cover the awrat parts[1] while making the tawâf. This is very important for women.

14 - While making sa'i between the mounts of Safâ and Merva, to begin from Safâ.

Getting on top of the mount of Safâ, you turn towards the Kâ'ba. You make tekbîr (say: "Allâhu akber") and tehlîl (say: "lâ ilâha illallah"), and say the prayer of salawât[2]. Then, stretching both arms forward on a level with your shoulders and opening your palms toward the sky, you say your prayers. Next you walk towards Merva. You walk four times from Safâ to Merva and thrice from Merva to Safâ.

15 - To perform two rak'ats of namâz in the **Masjîd-i-harâm** after each tawâf.

16 - To do the devil-stoning (the Jumarats) during the 'Iyd days.

17 - To shave the head or cut the hair on the first day of 'Iyd and within the Harem.

18 - To make the sa'i walking. Men walk faster between the two green posts.

19 - For people making qirân or tamattu' hajj, to kill a qurbân for thanksgiving.

20 - To kill the qurbân on the first day of the 'Iyd.

21 - Doing such forbidden things as having sexual intercourse before staying at 'Arafât will nullify the hajj. It is fard not to do such things before staying at 'Arafât. It is wâjib to forbear from those things other than sexual intercourse till after taking off the

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[1] See Chapter 8 of fourth fascicle of Endless Bliss.

[2] "**Allâhumma salli 'alâ sayyidinâ Muhammadin wa 'alâ âli sayyidinâ Muhammad**."

ihrâm and from intercourse till after making the tawâf-i-ziyârat.

A person who does not perform a wâjib at its prescribed place and time, wittingly or not, is liable to punishment. The punishment is to kill a qurbân or to give alms as much as the amount of fitra. Nothing is necessary when it (the wâjib) is omitted for such reasons as illness, old age, or for the place to be overcrowded. [Nor is it necessary to have a deputy perform the wâjib (one has omitted for such reasons)]. A woman in the state of haid (menstruation) or nifâs (lochia) cannot enter the Masjîd-i-harâm. She performs the menâsik other than the tawâf and the sa'i. And she performs the tawâf and the sa'i when she is clean. Each day's menâsik may as well be made on the night following it.

It is permissible to perform a fard or supererogatory namâz, as well as to perform a namâz in jamâ'at in the Kâ'ba. It may as well be performed by turning your back toward the imâm's back. It is makrûh to perform it by turning your back toward the imâm's face or to perform it on top of the Kâ'ba. While performing the salât by forming a circle round the Kâ'ba, people other than those on both sides of the imâm can be closer to the Kâ'ba than the imâm.

THERE ARE ELEVEN ACTS THAT ARE SUNNAT TO PERFORM DURING THE HAJJ:

1 - For those who are âfâqî (from distant places) and who have not intended to perform the (kind of hajj termed) tamattu', to go directly into Masjîd-i-harâm and make **Tawâf-i-qudûm**. Upon seeing the Kâ'ba they say tekbîr, tehlîl, and prayers. Men rub their hands and face gently on the Hajer-i-aswad. In case they are unable to do so, they perform the istilâm from the distance, i.e. by raising their hands, saying. "Bismillâhi, Allâhu akber," and rubbing them gently on their face. After the tawâf-i-qudûm and two rak'ats of namâz, the sa'i between Safâ and Merva is performed. Then, without taking off their ihrâm, they stay in Mekka and make as many supererogatory tawâfs as they like until the day of Terwiya. Because the mufrid hadjis and the qârin hadjis cannot take off their ihrâm till after throwing pebbles and shaving their head (or cutting their hair), they have to spend every day avoiding the things prohibited when in the ihrâm. People who cannot avoid such things had better choose to be mutamatti' hadji. It is not sinful to pass before people who are performing salât within the Masjîd-i-harâm.

2 - To begin the tawâf from **Hajer-i-aswad** and to end it there.

3 - For the imâm to make the (speech called) khutba at three

places: The first in Mekka on the seventh day of Dhu'l-hijja month; the second at 'Arafât when the time for the early afternoon prayer comes, before the early and late afternoon prayers on the ninth day; and the third at Minâ on the eleventh day. At 'Arafât, when khutba is over, the early afternoon prayer and immediately thereafter the late afternoon prayer are performed in jamâ'at. A person who is late for the jamâ'at performs the late afternoon prayer at the time of the late afternoon prayer. After the salât, the imâm and the jamâ'at leave the Masjîd-i-Namra to go to the Mawqif and, the imâm sitting on an animal and the hadjis staying on the ground, standing or sitting towards the Qibla, they perform the waqfa. It is better for the jamâ'at to be on animals, too. It is not necessary to mount the rocks of **Jabal-i-rahma** or to make niyya for the waqfa. [The salât which is performed behind the imâm who belongs to a group of bid'at should be reperformed. For, it has been stated in hadîth-i sherifs that worships performed by people who belong to a group of bid'at will not be accepted.]

4 - To leave Mekka for 'Arafât on the day of **Terwiya**, that is, on the eighth day of Dhu'l-hijja, after the morning prayer. Mina is the first stop after leaving Mekka.

5 - To sleep at Minâ on the night before the 'Arafa day and on the nights of the first, second and third days of the 'Iyd. It is not obligatory to stay at Minâ on the third night and day. Please see the first paragraph of the sixtieth chapter of the third fascicle of Endless Bliss.

6 - To leave Minâ for 'Arafât after sunrise.

7 - To sleep at Muzdalfa on the night of 'Arafa. You go from 'Arafât to Muzdalfa and, when the time for the night prayer comes, you perform the evening and night prayers one immediately after the other in jamâ'at. Those who have performed the evening prayer at 'Arafât or on the way have to perform it again together with the night prayer at Muzdalfa, in jamâ'at or individually.

8 - To stay for Waqfa after dawn at Muzdalfa. Spending the night at Muzdalfa, you perform the morning prayer immediately after dawn and then perform the waqfa at a place called **Mesh'arilharâm** until everything becomes twilit. Then you leave for Minâ before sunrise. On the way you should not stop at the valley called **Mukhasser**. This is the place to stop for the **As-hâb-i-fîl**. After coming to Minâ, at a place called **Jamra-i-aqaba**, which is the farthest from the **Masjid-i-Khîf**, by using the thumb and the pointing finger of your right hand you throw seven pebbles as big

as chick-peas at the foot of the wall marking the place of Jamra from a distance of two and a half metres or more. It is acceptable if they fall at the foot of the wall after striking the wall or a man or an animal. Though it is permissible to do the pelting any time until the dawn of the following day, it is sunna to do it before noon of that day. Then, leaving the place immediately, you slaughter a qurbân if you like. For, it is not wâjib for a safarî person to perform the qurbân. It is not wâjib for those hadjis who are safarî[1] to perform the qurbân when they are mufrid hadjis. After the performance of the qurbân you shave your head (or cut your hair) and take off the ihrâm. People who are at Minâ on the first day of the 'Iyd and all hadjis do not perform the 'Iyd prayer. Then, that day, the following day or the other day you go to Mekka and, after intending, make the**Tawâf-i-ziyârat**, which is also called the **Tawâf-ul-ifâda**. It is makrûh to postpone the tawâf-i-ziyârat and the haircutting till after the sunset of the third day of the 'Iyd; if you do so, you will have to kill a qurbân. Someone else can perform the tawâf on your behalf only if you are unconscious. During the Tawâf-i-ziyârat, you do not make **Ramal** and **Sa'y** again if you have already performed Sa'y for this Tawâf. If you have not, it is wâjib to make Sa'y. This Tawâf does not necessitate the manner of wearing the ihrâm like an upper plaid called **idhtiba'**, i.e. by passing its upper part under the right armpit and placing it on the left shoulder. After the salât of tawâf you return to Minâ. You perform the early afternoon prayer in Mekka or at Minâ. The khutba is made at Minâ after the early afternoon prayer on the second day of the 'Iyd. After the khutba you throw seven pebbles at each of three different places. You begin with the place closest to the **Masjîd-i-Khîf**. On the third day of the 'Iyd you throw seven more pebbles at each place, and the number of pebbles becomes forty-nine. It is not permissible, or it is makrûh (according to some savants), to throw them before noon. You leave Minâ before the sunset of the third day. It is mustahab to spend the fourth day at Mina, too, and to throw twenty-one more pebbles any time you like from dawn to sunset. If you stay at Minâ until the dawn of the fourth day and leave the place without having thrown pebbles at all, you will have to kill a sheep. After throwing pebbles at the first place and at the second place you stretch forward your arms on a

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[1] 'Safarî' means '(a person) making a long-distance journey'. Please see fifteenth chapter of the fourth fascicle of **Endless Bliss** for detailed information.

level with your shoulders and turn the palms to the sky or to the qibla, and say your prayers. The seventy pebbles to be thrown are picked up at Muzdalfa or on the way. It is permissible to throw the pebbles when on an animal. After the **Tawâf-i-sadr** you will drink water of zemzem. You will kiss the threshold of the Kâ'ba, and rub your chest and right cheek gently on a place called **Multazam**. Then, holding on to the curtain of the Kâ'ba, you say the prayers you know and offer your invocations. Then, weeping, you go out the door of the Masjîd.

Minâ is to the east of Mekka; Muzdalfa is to the east of Minâ, and 'Arafât is to the east of Muzdalfa. With the recently built asphalt roads, between Minâ and Mekka is now 4.5 kilometres, between Minâ and Muzdalfa is 3.3 kilometres, between Muzdalfa and 'Arafât is 5.4 kilometres, between Safâ and Merva is three hundred and thirty metres, and between the arch on the mount of Safâ and the Kâ'ba is about seventy metres.

9 - To make a ghusl before the Waqfa at 'Arafât.

10 - During the last return to Mekka from Minâ, to visit a valley called Ebtah and stay there for a while. Thence you come to Mekka, and stay there as long as you like.

11 - Before setting out for hajj, it is a sunnat to ask for permission from your parents who are not in need, from your creditors, and from your surety. If your parents are needy it is harâm to set out without their permission. Also, it will be harâm to set out without your wife's permission if you do not leave subsistence with her. It is mustahab to enter Mekka through a door called **Mu'allâ**, and the Masjid through the **Bâbussalâm** and during daylight.

He who omits the sunnats of hajj is not liable to punishment. Yet it is makrûh and causes a decrease in the thawâb (not to do them). If the 'Arafa day coincides with a Friday it produces the thawâb of seventy hajjes. It is common among the people to call this Hajj-i-akber, which is not true.

Lying between two opposite combinations of mountains extending in a north-south direction, Mekka covered an area of three kilometres in length and one kilometre in width. Its stone-built houses had mostly three to four stories. In the center of the city is a great mosque named **Masjidilharâm**, which is open on the top and has a yard which, like the yards of Istanbul's mosques, is surrounded by three rows of domes. The domes number five hundred and are supported by 462 pillars, of which 218 are made

of slender marble, 224 are carved from a stone called hajar-i-shems, of hexagonal or octagonal cross-section, and yellow-coloured. Masjid-i-harâm had a quadrilateral form, its north wall being 164 metres long, south wall 146 metres long, east wall 106 metres long, and west wall 124 metres long. In 1375 [1955 A.D.] Wahhâbîs extended all four walls, so that Safâ and Merva were included in the Masjid. Hence, the mosque became one hundred and sixty thousand square meters. The blessed mosque of Saint Sophia in Istanbul is 77 metres long and 72 metres wide, and the blessed Sultanahmed (blue) mosque is 72 metres long and 64 metres wide. Masjîd-i-harâm had nineteen doors, of which four were on the east wall, three on the west wall, five on the north wall and seven on the south wall. It has seven minarets. During the time of the Ottomon Empire, the distance between Mekka and the port of Jiddah was 75 km., between Medina and Jiddah 424 km., and between Medina and Badr 150 km. The shortest road between Mekka and Medina was 335 km. The coastal way whereby Rasûlullah migrated was 400 km. Mekka is 360 metres above the sea level. Medina is 160 kilometres inland from the coast. If a murderer takes refuge in the Majid-i-harâm, he has immunity from prosecution until he leaves the precinct, according to the Hanafî Madhhab.

Before the time of Hadrat 'Umar 'radiy-Allâhu 'anh', Masjid-i-harâm did not have any walls. Around the Kâ'ba was a small square sorrounded by houses. The Caliph 'Umar had some of the houses demolished and had a one-metre-high wall built around the Kâ'ba, and thus Masjid-i-harâm came into existence. Masjid-i-harâm was restored various times. Today's Masjîd-i-harâm, together with the eleventh restoration of the Kâ'ba-i-mu'azzama, was built in 1045 hijri [1635 A.D.], during the time of Sultan Murâd Khan IV, the seventeenth Ottoman Emperor 'rahmatullâhi ta'âlâ 'alaih'. Now Wahhâbîs, on the pretext of enlarging them, are demolishing and annihilating those historic Islamic works, building in their place things that have only materialistic value. At the cost of desecrating the Kâ'ba-i-mu'azzama, they are building taller houses and hotels.

The Kâ'ba-i-mu'azzama is a cubical room built of stone in the middle of Masjid-i-harâm, and is 11.4 meters tall. Its north wall is 9.25 metres long, south wall 8.5 metres long, east wall 13.5 metres long, and west wall 13.3 metres long. On the corner of the east-south walls is the stone of Hajer-i-aswad, which reaches a height of over one metre above the ground. With Prophets and hadjis

having kissed it, its surface is now rather concave. The Kâ'ba has a door on the east wall. 1.88 metres above the ground, the door is 1.7 metres wide and 2.6 metres high. Its inner side, as well as the floor, is covered with coloured marble. Its minaret-like spiral staircase near the corner called Rukn-i-Iraqî, with its twenty-seven stairs of which seven are made of marble and the rest of wood, was restored by Mustafa Khan II. To the right of the door is a hollow and three pillars reaching the ceiling. The outer side of the Kâ'ba is dressed with black silk tissue. The door is curtained with green satin.

The Zemzem well, also within Masjîd-i-harâm, is in a room opposite the corner of hajer-i-aswad and fourteen and a half meters away from the corner, and has a stone curb 1.9 metres high. Its diameter is two and a half meters long, and its depth is thirty meters. The room, built by Sultan 'Abd-al Hamîd Khan I, who also had the Beylerbeyi Mosque built in Istanbul, has a floor covered with marble, sloping down towards the walls, and ending in gutters at the feet of the walls. It is of such competent work as it will not let any water ooze into the well. The mouth of the well is about one metre and half above level. This work of art, a valuable keepsake of history, was barbarously destroyed in 1383 [1963 A.D.]. They lowered the mouth of the well and an area of several square metres around it to a level several metres below the earth's surface.

The four corners of the Kâ'ba are called the four rukns. The one pointing to Damascus (Shâm) is termed Rukn-i-Shâmî, the one pointing to Baghdad is termed Rukn-i-Irâqî, the one toward the Yemen is termed Rukn-i-Yemânî, and the fourth corner is termed Rukn-i-Hajer-il-aswad.

It is mustahab to drink zemzem after each tawâf. With hundreds of thousands of hadjis drinking the zemzem, washing themselves with it, and taking lots of it to their countries, the water in the well cannot be exhausted. And now everyday the water has been pumped out day and night with a machine and a large-hose pipe, but it still does not seem to be exhaustible.

There is a Gold Gutter on the north wall of the Kâ'ba. The space of ground inclosed between the wall of the Kâ'ba-i-muazzama underlying this gutter and the crescent-shaped small wall is called the Hatîm. While making the tawâf it is necessary to make the circumambulations outside of this Hatîm wall.

The earth has only one Kâ'ba. And it is in the city of Mekka-i-mukarrama. To perform the hajj Believers go to the city of Mekka-i-mukarrama, and there they perform the rites commanded by Allâhu ta'âlâ, and become hadjis. Disbelievers go to other

countries and visit other places. They are not called hadjis. Muslims’ acts of worship and disbelievers’ irreligious acts are different things.

If people living in the Hil enter Mekka without the ihrâm it becomes wâjib for them to make hajj or ’umra.

The chapter entitled “The Two Most Beloved Darlings of Muslims” in the Turkish book **Ashâb-i Kiram**[1], gives detailed information indicating that after making the hajj it is necessary to go to Medina-i-munawwara and visit the Prophet’s blessed grave. The **Hujra-i-sa’âda** (the Prophet’s blessed grave), being close to the east corner of the qibla wall of Masjîd-i-sherîf, is on the left side of a person who stands towards the qibla in the mihrâb. And the Minbar is on his right. The area between the Hujra-i-sa’âda and the minbar is called **Rawda-i-mutahhera**. The Hujra-i-sa’âda is enclosed by two walls, one within the other. There is a hole in the middle of the ceiling of the inner wall. The outer wall reaching the ceiling of Masjîd, its green dome can be seen from afar. The outer walls and the high grating outside are screened with curtains called **Sitâra**. No one can go inside the walls, for they have no doors. On the 384th page of the book **Mir’ât-i-Medîna** it is written that when Masjîd-i-sa’âdat was first constructed, its width was 60 dhrâ’ [25 meters], and its length was 70 dhrâ’ [29 meters]. Two months before the Battle of Bedr, i.e. in the month of Rajab of the second year, after the heavenly order to shift the qibla direction towards the Kâ’ba was revealed, its door was moved from the south wall to the north wall, and the masjîd’s length and width were extended to a hundred dhrâ’ [42 meters] each. This door is named **Bâb-ut-tavassul**. During the restoration period of **Velid bin Abdulmalik** and the Abbasî Caliph **Mehdî** ‘rahmatullâhi ’alaihim ajma’în’ in 165 [781], the masjîd’s length became 126 meters and its width 76 metres. Wahhâbîs extended it in 1375 [1955] and its length became 128 metres and its width 91 metres. They substituted Wahhâbî names for the historic names within the Masjid-i Nabî.

The Masjîd-i-Nabî now has five doors. Two of them are on the west wall; the one near the qibla is called **Bâbussalâm**, and the one near the north corner is called **Bâburrahma**. The east wall has no

[1] This Turkish book, written by the profound Islamic scholar and beloved Walî, Huseyn Hilmi bin Sa’îd Işık ‘rahmatullâhi ta’âlâ ’alaih’ (1329 [1911], Istanbul – 1422 [2001], Istanbul,) was translated into English with the title **Sahâba ‘The Blessed’** in Çanakkale and printed in Istanbul in 1998.

door on the qibla side. The east wall has the **Bâb-i-Jibrîl**, which is opposite the Bâburrahma. Please see the chart on the ninety-sixth page of (sixteenth edition of) **The Sunnî Path**.

It is written in **Durr-ul-mukhtâr**: "The fard hajj must be made before visiting Medina. It is also permissible to visit Medina first. As you make the supererogatory hajj you go to the city, which is on your way, first. When entering Medina you must intend only to visit the Prophet's 'alaihis-salâm' grave. One prayer of salât performed in the Masjîd-i-Nabî is superior to a thousand prayers of salât performed at other places. So is the case with such kinds of worship as fasting, alms, dhikr, and reading (or reciting) the Qur'ân al-kerîm. You do not wear the ihrâm when you enter Medina. The prohibitions that are valid as you wear the ihrâm in Mekka are not valid in Medina. Ibn Teymiyya said that one should not go to Medina in order to visit the Prophet's grave, but his argument has been confuted by the savants of Ahl-as-sunna. Imâm-i-Abû Hasan Alî Subkî 'rahmatullâhi ta'âlâ 'alaih', [in his books **Erreddu li-ibni Teymiyya** and **Shîfâ-us-sikâm fî ziyârat-i Sayyid-il enâm**,] refutes Ibni Teymiyya's misleading words with incontestable proofs. It is permissible even for women to visit the blessed grave at times when it is not crowded, provided they shall cover themselves." The articles refuting Ibni Teymiyya, by Imâm-i-Subkî and other savants, have been published in Arabic in the book **Islamic Savants**.

It is written in **Marâqilfalâh** and in its annotation: "When you see Medina from afar, you say salât and salâm. Then say the following prayer: "**Allâhumma hâzâ harem-u-Nabiyyika wa mehbit-u-wahyika famnin 'alayya bi-d-duhûl-i-fîhi waj'alhu vikâyatan lî min-an-nâr wa amânan min-al-'azâb waj'alnî min-al-fâizîna bi-shafâ'at-il-Mustafâ yawm-al-meâb**." You make a ghusl before entering the city or the Masjîd. You put on some good alcohol-free perfume. You assume new, clean clothes. It will be good to enter the city walking. After placing your luggage, etc. at some place, with a hanging head and a broken heart, meditating on the value and the greatness of those sacred places, saying the prayer, "**Bismillâhi wa 'alâ millati Rasûlillah**," and the eightieth âyat of sûra **Isrâ**, which was revealed on the night of Hegira, and also the salawât-i-sherîfs, which are said also in namâz, and also the prayer, "**Waghfir lî-zunûbî wa-f-tâh lî ebwâba rahmatika wa fadlika**," you arrive at the Masjîd. Entering the Masjîd either through the Bâb-us-salâm or through the Bâb-ul-Jibrîl, you perform two rak'ats of **Tahiyyatul-masjîd** namâz near the minbar.

The pillar of the minbar must be in line with your right shoulder. Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ would perform the namâz there. Then you perform two more rak’ats of namâz of gratitude. After saying your prayers you stand up and with adab come near the Hujra-i-sa’âda. With your face toward the wall of Muwâjaha-i-sa’âda and toward Rasûlullah’s blessed face and your back toward the qibla you stand with adab, about two metres from the blessed grave. You keep in your mind that Rasûlullah sees you, hears your salâm and prayers, and answers you, saying âmîn. Beginning with, **“Essalâmu ’alaika yâ sayyidî, yâ Rasûlallah...,”** you say the long prayer in the (above-named) book. You say the salâms sent (by others) through you. Then, first saying the salawât, you say the prayers you choose. Then, moving one metre to your right, you greet Hadrat Abû Bakr by saying the long prayer in the book which begins as, **“Essalâmu ’alaika yâ khalîfata Rasûlillah...”** Then, moving half a metre to your right you greet Hadrat ’Umar by saying the long prayer in the book. Then you pray for yourself, for your parents, for those who asked you to pray for them, and for all Muslims. Then you move back and stand opposite Rasûlullah’s blessed face. You say the prayer in the book and also other prayers which you will choose. Then you come to the pillar to which hadrat Abû Lubâba tied himself and made tawba (penance). Here, and in the Rawda-i-mutahhara, you perform supererogatory or qadâ salât. You make tawba and pray. At your own discretion, you should also visit **Masjîd-i-Kubâ, Masjîd-i-qiblatayn,** the martyrs of Uhud, the graves at Baqî, and many other well-known sacred places.”

Ibni Qayyim says: “You say your prayers by turning your back to Rasûlullah’s grave. Likewise states Abû Hanîfa.” It is written in **Durer-us-seniyya**[1] that “Alûsî, too, states so in his tafsîr.” However, all the savants of Ahl-as sunna write that you say your prayers by turning toward the blessed grave, the qibla wall being behind you. Even Alûsî’s son, Nu’mân, who was a follower of Ibni Teymiyya and Ibni Qayyim, was reasonable enough not to hide the fact, and wrote in his **Ghâliya**: “After performing two rak’ats of namâz in the Masjîd, you come to the Hujra-i-sa’âda, turn towards his blessed face and, standing with adab as you would do if he were alive, say salât and salâm and say the prayers prescribed by the Sharî’a. For, Rasûlullah is alive in his grave too. Most savants say

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[1] Written by Ahmad bin Sayyid Zeynî Dahlân ‘rahmatullâhi ta’âlâ ’alaih’, (1231 [1816 A.D.], Mekka – 1304 [1886], Medîna.)

that it is a sunna to come from far away places only to visit the blessed grave. For, a hadîth-i-sherîf declares: '**He who comes to visit me and only visits me without doing anything else will gain a right obliging me to intercede for him**.' Another hadîth-i-sherîf declares: '**I acknowledge the greeting of the person who greets me.' "**

Abdulhaq-i-Dahlawî 'rahmatullâhi ta'âlâ 'alaih' says in Persian in his book **Jedhb-ul-qulûb**: As the **Masjid-i-sherîf** was being built, two more rooms were built, one for 'Âisha and one for Sawda 'radiy-Allâhu anhumâ'. Then, a room was built for each blessed wedding, and the number of rooms became nine. It being a custom in Arabia, the rooms were made of date branches and were roofed with hair felt. Its doors were no more than hanging curtains. The rooms were on the south east and north sides of the Masjîd. Some of them were made of sun-dried bricks. The doors of most of them opened into the Masjîd. Their ceilings were a span higher than a man of medium stature. There was a door between the rooms of Hadrat Fâtima and Hadrat 'Âisha. A few days before his passing away, he had the doors of the Sahâba's rooms opening into the Masjîd closed, with the exception of that of Abû Bakr.

In the seventeenth year of the Hegira, Hadrat 'Umar 'radiy-Allâhu 'anh' had the Masjîd enlarged on the west and north sides. With the rooms belonging to the Zawjât-i-tâhirât 'radiy-Allâhu ta'âlâ 'anhunna' being on the east side, he did not do any enlargement on the east side. Thus, its south-north wall became a hundred and forty dhrâ' [seventy metres] and the east-west wall became a hundred and twenty dhrâ'. He said, "I would not enlarge the Masjîd if I had not heard the Prophet's command: '**It is necessary to enlarge my Masjîd**!' " He had the new walls made of sun-dried bricks and date branches like the old ones. Hadrat Abbâs donated his room, which was adjacent to the west wall. Half of Ja'fer Tayyâr's house adjacent to it having been bought, the two were added to the Masjîd-i-sherîf. In the meantime hadrat 'Umar had the **Hujra-i-sa'âda** restored with sun-dried bricks. In the thirtieth year of the Hegira hadrat 'Uthmân 'radiy-Allâhu 'anh' had these walls and the northern wall demolished again and the Masjîd enlarged. He had the new walls and the pillars made of stone and the ceiling of teak timber. A hadîth-i-sherîf conveyed by Abû Hureira declares, "**If they enlarged my Masjîd as far as San'â city in Yemen, all of it would be my Masjîd**."

In the eighty-eighth year the Caliph Walîd gave an order to the governor of Medina 'Umar bin Abdul'azîz, having all four walls

demolished, whereby the rooms of the Zawjât-i-tâhirât, which were on the east side, were added to the Masjîd. The four walls of the Hujra-i-sa'âda were demolished and rebuilt with dressed stones from the base. As the base was being dug out Hadrat 'Umar's one foot was seen. It had not rotted at all. A second wall was built around the Hujra. It had no doors. The ceiling of the Hujra became half a metre higher than the Masjîd, and the Masjîd became two hundred dhrâ' long and a hundred and sixty-seven dhrâ' wide. Forty craftsmen had been brought from the east Roman Empire, and the walls, the pillars, and the ceiling were ornamented with gold. For the first time, the mihrâb and four minarets were built. The work took three years. In the hundred and sixty-first year Mahdî, one of the Abbasid caliphs, enlarged it by erecting ten pillars only on the north side. Also the Caliph Ma'mûn enlarged it a little more in the year 202 [817 A.D.]. Then, in the year 550, Jemâleddîn Isfahânî made a grating of sandalwood around the second wall. This grating is called **Shabaka-i-Sa'âda**. A white silk curtain, which was sent from Egypt in the same year and on which the Sûra-i-Yasîn was written in red silk embroidery, was hung around it. This curtain is called **Settâra**. In the year 678 [1279] the Turkoman sultan of Egypt Seyfeddîn Sâlih Klawûn 'rahmatullâhi ta'âlâ 'alaih' had today's **Kubba-i hadrâ** built for the first time and had it covered with sheet-lead. Today's Masjîd was built in 888 [1483 A.D.] by Eshref Qaytebay 'rahmatullâhi ta'âlâ 'alaih', one of the Circassian sultans of Egypt, and was restored and embellished by the Ottoman sultans. Here, we end our translation from **Jedhb-ul-qulûb**.

The center of **Da'wat-ul-islâmiyyat-ul-'âlamiyya**, which is in Mîrpur, Pakistan, sent a declaration to all Muslim countries in 1398 [1978 A.D.]. The declaration stated:

Our center of **Da'wat-ul-islâmiyyat-ul-âlamiyya** has met with disgust the article that proposes the demolition of the **Qubbat-ul-hadrâ** and which was written by a Wahhâbî named Sa'dulharamein in the Sha'bân 1397 [1977] issue of the periodical **ad-Da'wa**, which is published in Saudi Arabia. Our members convened in Mîrpur, Pakistan, to protest the article. The assembly was presided over by 'Allâma Muhammad Beshîr 'rahmatullâhi ta'âlâ 'alaih'. The following is a summary of speeches made in the presence of that great audience:

The Qubbat-ul-hadrâ is the apple of the eye of all Muslims. Muslims regard visiting this Hujra as a means for their salvation. For, our Prophet 'sall-Allâhu 'alaihi wa sallam' declared: "**My**

shafâ'a (intercession) **is wâjib for a person who visits my grave**." That squalid article of Sa'dul-haramein's is a great mischief and is a surreptitious stratagem of the enemies of Islam. Could a Muslim ever think of such a thing? Could he act as a ringleader in destroying the ensign of Islamic religion? We swear by Allah that he could not. We have reason to believe that the scandalous article has been buttressed up by clandestine hands, e.g. Jewish forces, from behind. It is beyond doubt that their exhumation of the blessed bodies of the Sahâba and of our Prophet's father Abdullah from their graves has emboldened them to the detestable thought of demolishing the Qubba-i-hadrâ. This abominable article will lead to great mischief. There is no value in it. The Saudi Arabian government must explain whence the daring comes for this ugly article which has deeply hurt Muslims, whose hearts are filled with the love of Rasûlullah and of the Qubbat-ul-hadrâ. Muslims, no doubt, love the Arabs because they have been serving the Haramein-i-sherîfein and the Qubbat-ul-hadrâ. If the Arabs desecrate these sacrosanct places, Muslims' hearts will certainly no longer have any love for them. We call upon the Muslims all over the world to inform the government of Saudi Arabia with the vehemence of the sorrow caused by this detestable trickery and to join the struggle for the neutralization of this atrocious stratagem!

The Arabic origin of the above-given summon has been appended to the end of the 1978 edition of the book **al-Madârij-us-seniyya fi-r-radd-i-'ala-l-wahhâbiyya-i-Hindiyya**[1].

It is written at the end of the chapter about hajj in the book **Ibn Âbidîn**: "En route for hajj, a poor person will be doing supererogatory worship until he arrives in Mekka. Heretofore he will be given thawâb for supererogatory worship. When he arrives in Mekka it becomes fard for him to make the hajj. But a rich person begins to earn the thawâb of the fard the moment he leaves his country for hajj. If a poor person leaves his country (or hometown) after putting on the ihrâm, he wil earn the thawâb of fard on the way, too, thus attaining the same thawâb as the rich one does. A person whose parents do not need him can go on the hajj which is fard without their permission. [But he cannot go on the supererogatory hajj without their permission.] Doing things useful for Islam, such as building mosques, schools for teaching the Qur'ân al-kerîm, causes more thawâb than the supererogatory

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[1] This book was written by Âmir-ul-Qâdir Pakistânî. A copy of the book is available from Hakîkat Kitâbevi, Fâtih, Istanbul, Turkey.

hajj. If the money spent on the supererogatory hajj is customarily being portioned out to Muslims in need, making supererogatory hajj or ’umra will cause more thawâb than giving alms in your own country. For, in this case, you will be worshipping both financially and physically. It is stated in the twenty-sixth letter in **Maqâmât-i-Mazhariyya**[1] that in this hajj it is necessary not to omit a fard or wâjib without an excuse and not to commit a harâm or makrûh. Otherwise making the supererogatory hajj will produce sinfulness rather than thawâb. Please see the final part of the twenty-third chapter of the fourth fascicle, the first chapter of this fascicle, and the letters 29 and 123 and 124 in the (Turkish book) **Mektûbât Tercemesi**. Serving Islam by joining the army or through publication or propagation causes more thawâb than the supererogatory hajj. For a person who does not have such services, helping the poor, the needy, the pious, the sayyids financially causes more thawâb than making the supererogatory hajj or doing such services as building mosques, schools for teaching the Qur’ân al-kerîm, and the like.”

An eye whose looks take no warning,
Is one’s enemy on one’s own head.

Ear that takes no advice at each hearing;
In its hole one must pour hot lead!

A hand that has no good, pious doing,
Is not given Paradise grade.

Foot must be cut if worship’s not its knowing;
Hang it near mosque, let others dread!

If the heart’s not inhabited by divine loving,
Don’t call it heart, it’s fed in the mead!

Don’t call the devil my nafs; it takes you to evil-doing.
Nafs will run to good, like downhill sled.

How could one call it heart, which Satan’s leading;
By pride it’s led, and on grudge it’s fed.

[1] Written by Sayyid Abdullâh Dahlawî ‘rahmatullâhi ta’âlâ ’alaih’, (1158 [1744 A.D.], Puncab, India – 1240 [1824], Delhi.)

8 – CONVERSION OF A SOLAR YEAR INTO A LUNAR YEAR

As is stated in the chapter entitled PRAYER TIMES in the fourth fascicle, one of the units of measurement of time is the year. Two kinds of years of different lengths are solar year and lunar year. A solar year is the duration of time in which the earth makes one tour around the sun, which is 365.242 solar days. Lunar year is the length of time it takes for the moon to make 12 rotations around the earth: this takes an average of 354.367 solar days. Therefore, a solar year is 10.875 days longer than a lunar year. Regarding the starting point of time, two types of calendars are being used: **Hegira** and **Gregorian**. The Gregorian one is supposed to have started with the birthday of the Prophet Îsâ ‘alaihis-salâm’. However, contrary to the common belief, it is written in **Kozmoğrafya**, by Hasîb Bey, that King Charles IX of France ordered in 970 [1563 A.D.] that the new year should start on 1 January. The Hegira calendar starts with the year when our Prophet ‘sall-Allâhu ’alaihi wa sallam’ migrated to the city of Medina. The starting day of the Hegira solar year is the 20th of the Gregorian September, which was Monday, the 7th of September of the Roman year, when he entered Medina. This information is written in further detail in the calendar of Abuz-Ziyâ, dated 1310 [1893 A.D.]. The Persian solar year starts six months before the Hegira solar year, on the 20th of March, which coincides with the Zoroastrian Day. On the other hand, the starting day of the Hegira **lunar** year is the 16th of July of the Gregorian year, the first Friday of the month of Muharram of the same year. The migration of our Prophet ‘sall-Alâhu ’alaihi wa sallam’ took place in 622 (A.D.). The beginning of the Hegira lunar year is 196 days (0.54 years) after the completion of the year 621 A.D. The Hegira solar year began 262 days (0.72 years) after the completion of the year 621 A.D. So, the beginning of the Hegira solar year is 66 days (0.18 years) later than the Hegira lunar year. If 0.18 years is added to the number of the Hegira solar year, the number of the Hegira solar year also will start on the 16th of July. Due to the 10.875 days’ difference in a year, for every 32.59 years of the Hegira solar calendar, 33.59 years have elapsed of the Hegira lunar calendar. If the number of lunar years is multiplied by the quotient of 32.59 ÷ 33.5 = 0.97023 the product will be the number of solar years. If the number of Hegira solar years is multiplied by the quotient of 33.59 ÷ 32.59 = 1.0307 the product will be the number of lunar years.

Let us calculate the Hegira solar year which coincides with the beginning of the lunar year 1404. Since a year begins after the last day of the previous year, and if the solar year also started on the 16th of July, then the number of solar years would simply be 1403 x 0.97023 = 1361.23. But, since a solar year starts 0.18 years later than the 16th of July, 0.18 years is subtracted from this, and the beginning of the Hegira solar year is found to be 0.05 x 12 = 0.6; first month's 0.6 x 30 = 18th day of the year 1362.

Let us calculate the lunar year which coincides with the beginning of the 1362 Hegira solar year: If the lunar calendar had started on the 20th of September, too, it would be 1361 x 1.0307 = 1402.78, and an 0.18 year excess of that number would be 1402.96 and taking 1402 from it 1402.96 -140 2 = 0.96 and 0.96 x 12 = 11.52; half of the twelfth month of the year 1403.

Let us calculate the starting dates of the Hegira years which coincides with the beginning of 1984 A.D. The Hegira solar year which coincides with the beginning of 1984 A.D. is 1984 - 622 = 1362. The difference between the 20th of September and the 1st of January is 103 days (0.28 years). We have already found that the lunar year which coincides with the beginning of the solar year 1362 is 1402.96. So, the lunar year would become 1402.96 + 0.2 8= 1403.24. That means (0.24 x 12 = 2.88) the twenty-seventh day of the (0.88 x 30 = 26.4) the third month of the lunar year 1404.

9 – CONVERSION OF A LUNAR YEAR INTO THE CHRISTIAN YEAR

Let us find the Christian year which coincides with the beginning of the Hegira lunar year 1404: 1403 x 0,97023 yields 1361.23, and the beginning of that Hegira solar year coincides with the 16th of July. Hence, 1361.23 + 621.54 = 1982.77, which is (0.24 x 30 = 7.2), i.e. the eighth day of (0.77x12=9.24) the tenth month of the year 1983 A.D.

10 – DETERMINING THE FIRST DAY OF THE HEGIRA YEAR

The first day of Muharram is the beginning of the Hegira year. To know what day it is, (it was, it will be,) the concerned year is

multiplied by five. The number obtained is divided by eight. The remainder shows the number of days from Thursday. For example, the first of Muharram, 1357:

Five times 1357 is 6785. When this is divided by eight the remainder is one. The first day of Muharram is Thursday. Please review this after reading the following four pages.

11 – CALCULATING THE FIRST DAY OF ANY ARABIC MONTH (by the IŞIK Method)

One minus the number of the year is multiplied by 4.367. The figure assigned to the month concerned is added to the integer of the number obtained. When the total is divided by seven, the remainder shows the number of days from Friday.

The figures assigned to the twelve Arabic months are relatively the first letters of the twelve capitalized words in the following mnemonic couplet:

Hilmi, Be not Drifted by Hopeless Zeal of Earth!
Jilting Damsel Was to the Zealous its Beauty's Joy.

The succession of the twelve capital letters in the couplet is the same as the succession of the twelve Arabic months beginning with Muharram. Each letter is the assigned number of the month occupying the same position in the series of twelve.

The letters in the words "Ebjed hewwez hutty" are called **Hurûf-i-jummal** and represent the following:

E = 1, b = 2, j = 3, d = 4, he = 5

w = 6, z = 7, hu = 8, t = 9, y = 10.

Accordingly, the first letters of the capitalized words in the couplet above denote the following months:

Hilmi = 8 = Muharram
Be not = 2 = Safar
Drifted = 4 = Rabî'ul-awwal
Hopeless = 5 = Rabî'ul-âkhir
Zeal = 7 = Jamâzil-awwal
Earth = 1 = Jamâzil-âkhir
Jilting = 3 = Rajab
Damsel = 4 = Sha'bân

Was = 6 = Ramadân-ul-mubârak
Zealous = 7 = Shawwâl
Beauty's = 2 = Dhu'l-qa'da
Joy = 3 = Dhu'l-hijja

As an example, let us find the twenty-ninth day of the month of Dhu'l-qa'da 1362:

Let us multiply the number 1361 by 4.367; the answer is 5943. Now let us add two to this, –for the number assigned to Dhu'l-qa'da is two–; the answer is 5945. If we divide this by seven the remainder is two. So, the first day of Dhu'l-qa'da is the second day beginning with Friday: It is Saturday. And the twenty-ninth day is again, naturally, Saturday. This method, discovered by Hüseyn Hilmi Işık[1] 'rahmatullâhi ta'âlâ 'alaih', the compiler of all the books published by Hakîkat Kitâbevi, is very precise and accurate.

The moon not only accompanies the Sun and the stars in their daily east-west motions, but also moves solo in a west-east direction around the earth. This motion is faster than the Sun's (apparent) annual motion from west to east. The moon completes one revolution in 27 days plus 8 hours. Therefore, it completes its daily tour approximately fifty minutes plus 30 seconds after the stars.[2] The Sun, on the other hand, completes its tour four minutes after (the stars). Consequently, the moon reaches the meridian later than the Sun did the previous day and sets 45 minutes after the Sun the first night. There is an angle of approximately five degrees between the plane of the lunar orbit and the ecliptic plane. Once each revolution, the Sun, the earth and the moon become aligned with one another, the Sun and moon sharing the same orientation with respect to the earth. This state of collinearity is called **Ijtimâ'i neyyireyn = Conjunction**. In this state the face of the moon in our direction becomes obscure. We cannot see the moon. This period of time is called **Muhâq** (Interlunar Period, Dark Moon, or Dark of the Moon). There is not a fixed length of this period of muhâq. It varies from twenty-eight hours to seventy-two hours. The Ottoman calendars give a maximum of three days. The time of conjunction is exactly the middle of the period of muhâq. Scientific calendars provide monthly tables showing the variations in its length. Since the earth

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[1] Please see the twelfth chapter of **The Proof of Prophethood.**
[2] This temporal difference is termed 'retardation'.

revolves about the Sun, too, the duration of time between two conjunctions is 29 days and 13 hours. At the time of conjunction, the Sun and the moon pass the meridian at the same time. The moon can by no means be seen anywhere before the angle between the Sun and the moon as seen from the earth, which is termed **Beynûnet** (elongation), has become eight degrees [approximately fourteen hours after the moment of conjunction]. When the angle becomes eighteen (18) degrees maximum, the moon comes out of the state of invisibility and the new moon appears on the western horizon within the forty-five minutes during sunset. However, due to the fifty-seven minute lunar parallax[1], when it reaches a position five degrees above the horizon, it can no longer be seen. After the moon comes out of the state of invisibility, the new moon can be observed in places situated on the same longitude as the location where the sunset is taking place. As for later hours, or, at night it can be observed after sunset in countries west of these places. For instance, close to the beginning of the month of Rajab, the time of conjunction was fifteen (15) hundred hours according to Turkish meantime [Izmit's local time], on 14 May, Wednesday, 1980. The new moon cannot be observed before 5 a.m. the following day, i.e. Thursday. When this angle is, as was accepted by the Ottoman scholars, eighteen (18) degrees, which means a duration of one and a half days, the first appearing of the new moon will be at 3 a.m. on 15 May, Friday. Since the time of sunset as of (that) Friday in Istanbul is 19.20 hours, it will be possible to observe the new moon during sunset on Friday [the night previous to Saturday] in the city of Chicago, America, where the sunset is 16 hours earlier, that is, they are 240 degrees east of Istanbul and 270 degrees east of London. It cannot be observed on this same night in places east of the two hundred and seventieth meridian. Their nights begin at the time of sunset and the mornings following these nights begin at midnight. The purpose for these calculations is not to determine the time when the lunar month begins, but to determine the (beginning of the) month when the new moon can be seen. Those who say that it began before Friday night should not be believed. Imâm-i-Subkî[2] also said so. We should not

[1] Angle subtended at the moon by the earth's equatorial radius.

[2] Abû Hasan-i-Subkî 'rahmatullâhi ta'âlâ 'alaih' (683 [1284 A.D.], Subk, Egypt – 756 [1355], Cairo.)

believe people who falsify the Imâm's statement **(Commentaires of Tahtâwî and Shernblâlî)**. It is stated as follows on the two hundred and eighty-ninth page of the first volume of Ibni 'Âbidîn, during the discourse on how to find the direction of qibla: "Scholars said that we should not trust calendars in learning the first day of Ramadân-i-sherîf. For, the fast becomes fard after the new moon is seen in the sky. Our Prophet 'sall-Allâhu 'alaihi wa sallam' stated: '**Begin to fast when you see the new moon**!' On the other hand, the appearing of the new moon depends on calculation, not on seeing it; calculation is valid, and the new moon appears on the night indicated by calculation. Yet it may be seen on the following night instead of that night, and it is necessary to begin the fast on the night it is seen, not on the night it must appear (according to the calculation). Such is the commandment of Islam." It is an act of worship to look for the new moon in the sky. As is seen, announcing the beginning of Ramadân-i-sherîf beforehand is an indication of not knowing Islam. Likewise, the first day of the 'Iyd of Qurbân is determined by observing the new moon for the (beginning of the) month of Dhu'lhijja. The ninth day of the month of Dhu'lhijja, the 'Arafa Day, is the day found by calculation or calendar, or the following day. The hajj performed by those who climb the 'Arafât a day earlier is not valid. So none of them can be a hadji.

The books **Ma'rifetnâma** and **Ajâib-ul-makhlûqât**[1] contain other different methods and charts instructing how to determine the first day of an Arabic month. The latter also quotes Imâm-i-Ja'fer Sâdiq 'rahmatullâhi ta'âlâ 'alaih' as having said: The first day of each year's Ramadân-i-sherîf is the fifth day of the week that is supposed to begin with the first day of the previous year's Ramadân-i-sherîf. Following is Uluğ Bey's chart and the directions showing how to use it, derived from Ahmed Ziyâ Bey's book:

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[1] Written by Zekeriyyâ Qazwînî, (d. 765.) It occupies the page margins of the two-volumed book **Hayât-ul-Haywân**, by Kemâleddîn Muhammad bin Îsâ Demîrî 'rahmatullâhi ta'âlâ 'alaih', (742–808) [1405 A.D.],) and which is available from Maktaba-t-ut-Tijârî in Beirut.

Months	0	1	2	3	4	5	6	7
Muharram	6	4	1	6	3	7	5	2
Safar	1	6	3	1	5	2	7	4
Rabî'ul-awwal	2	7	4	2	6	3	1	5
Rabî'ul-âkhir	4	2	6	4	1	5	3	7
Jamazil-awwal	5	3	7	5	2	6	4	1
Jamazil-âkhir	7	5	2	7	4	1	7	3
Rajab	1	6	3	1	5	2	7	4
Sha'bân	3	1	5	3	7	4	1	6
Ramadân	4	2	6	4	1	5	3	7
Shawwâl	6	4	1	6	3	7	5	2
Dhu'lqa'da	7	5	2	7	4	1	6	3
Dhu'lhijja	2	7	4	2	6	3	1	5

The Abuzziyâ Calendar of the year 1310 [A.D. 1893] formulates the steps for finding the first day of an Arabic month as follows: The number of the hijrî lunar year is divided by eight. The remainder is found on Ibni Ishaq Ya'qûb Kindî's[1] chart, above, the first line. A vertical movement downward from this number and a horizontal line rightward from the name of the month will intersect on the number representing the day counted from Friday on.

There are various methods for finding the first day of an Arabic month. The most dependable method is the one systematized by Uluğ Bey. According to this method, the first step is to find the first day of the first month, Muharram, of the hijrî year. For finding the first day of the month of Muharram, the number of the hijrî year concerned is divided by the fixed number 210. The unit of the remainder (the first number on the right) is subtracted from the remainder. The number found is checked on the first chart (The first one of Uluğ Bey's charts of lunar month): it will be one of the numbers on the first column, that is, the column containing numbers with their unit-columns discarded. A horizontal move rightward from this number and a vertical projection from the figure representing the unit of the remainder (on the uppermost horizontal line) will converge on the number indicating the first day of Muharram counted from Sunday. For example, let us find

[1] Ya'qûb bin Ishaq bin Sabbah bin Imrân, Abû Yûsuf, (d. 867 A.D., Baghdad, a scientist, scholar, and philosopher.

the first day of Muharram of the hijrî year 1316: First, 1316 : 210 = 6. 56 /210 . The remainder is 56. When its unit, 6, is subtracted, number 50 will be found. As you move rightward from number fifty on the first column, you will find number 1 on the column belonging to number 6, (which is on the uppermost horizontal line). Hence, the first day of the year (the hijrî year 1316) was Sunday. To find the first day of any Arabic month, first the first day of that year is found. On the second chart, the number on the intersection of the (horizontal) line belonging to the month concerned and the column containing the number on the line belonging to the month Muharram, i.e. the number on the first line representing the first day of the year, represents the number of the day counted from Sunday and it is the first day of the month concerned. As an example, let us find the first day of Ramadân, 1316: Sunday, the first day of that year, (as we have already found in the first example above), is the first day of the week. Therefore, on the second chart, the number on the intersection of the column belonging to number 1 on the first line and the horizontal line belonging to Ramadân is 6. Hence, the first day of Ramadân is the sixth day from Sunday, i.e. Friday.

How to find the beginning of the hijrî year concurring with a given Christian year:

A hijrî year begins approximately eleven days earlier in the Christian year following the Christian year in which the previous hijrî year began. Once every 33.58 hijrî years, which means once every 32.58 Christian years, the beginning of hijrî year coincides with one of the first ten days of January. Chart III shows the hijrî years beginning in December. The hijrî year-beginnings following these move yearly from this twelfth month backwards, towards the first month, coinciding with each of the Christian months. For finding the Christian month corresponding with the beginning of any of such hijrî years which the chart does not contain, the hijri year that is closest to it and which the chart contains is found on the chart, and thereby the Christian year next to this hijrî year on the chart. The difference between the two hijrî years is added to the Christian year found on the chart. For instance, let us find the Christian year coinciding with the beginning of 1344 hijrî: 1344-1330=14; 1911+14=1925. It coincides with July, which is below number 14 on Chart IV. The Christian year with which a certain Christian month within a certain hijrî year coincides, if this certain month is before the month with which the beginning of the hijrî year coincides, is one year ahead of the year found.

ULUĞ BEY'S CHARTS OF LUNAR MONTHS

CHART I

REMAINDERS WITH THEIR UNITS DISARDED	First figure of remainder										
		0	1	2	3	4	5	6	7	8	9
	0	2	6	3	1	5	2	7	4	2	6
	10	3	1	5	2	7	4	2	6	3	1
	20	4	2	7	4	1	6	3	1	5	2
	30	7	4	1	6	3	7	5	2	7	4
	40	1	6	3	7	5	2	7	4	1	6
	50	3	7	5	2	6	4	1	6	3	7
	60	5	2	6	4	1	5	3	7	5	2
	70	6	4	1	5	3	7	5	2	6	4
	80	1	5	3	7	4	2	6	4	1	5
	90	3	7	4	2	6	3	1	5	3	7
	100	4	2	6	3	1	5	3	7	4	2
	110	6	3	1	5	2	7	4	2	6	3
	120	1	5	2	7	4	1	6	3	1	5
	130	2	7	4	1	6	3	1	5	2	7
	140	4	1	6	3	7	5	2	7	4	1
	150	6	3	7	5	2	6	4	1	6	3
	160	7	5	2	6	4	1	6	3	7	5
	170	2	6	4	1	5	3	7	5	2	6
	180	4	1	5	3	7	4	2	6	4	1
	190	5	3	7	4	2	6	4	1	5	3
	200	7	4	2	6	3	1	5	3	7	4

CHART II

MONTHS	DAYS						
Muharram	5	6	7	1	2	3	4
Safar	7	1	2	3	4	5	6
Rabî'ul-awwal	1	2	3	4	5	6	7
Rabî'ul-âkhir	3	4	5	6	7	1	2
Jamâzil awwal	4	5	6	7	1	2	3
Jamâzil âkhir	6	7	1	2	3	4	5
Rajab	7	1	2	3	4	5	6
Sha'bân	2	3	4	5	6	7	1
Ramadân	3	4	5	6	7	1	2
Shawwâl	5	6	7	1	2	3	4
Dhu'lqa'da	6	7	1	2	3	4	5
Dhu'l hijja	1	2	3	4	5	6	7
'Iyd Qurbân	3	4	5	6	7	1	2

12 – MARRIAGE (NIKÂH) IN ISLAM

To have a **nikâh** means to get married, and **tatlîq** means to divorce, to dissolve the marriage.

In the book **Manâhij-ul-ibâd**, the Islamic nikâh is explained as follows:

The seventh chapter of this book covers the etiquettes of nikâh. The information on marriage sometimes varies because people, times and situations are not always the same. For this reason, while there are nass (âyats and hadîths) and ahbâr (reports, narrations) encouraging marriage, there are also others favoring bachelorhood. The times and states of the Ashâb al-kirâm and Tâbi'în 'radiy-Allâhu ta'âlâ 'anhum ajma'în' demonstrate that in their time it was best to get married. There were three reasons for this:

The first reason: During the time of Hadrat Muhammad Mustafâ 'sall-Allâhu 'alaihi wa sallam', Christianity was prevalent throughout the world. Since Îsâ 'alaihissalâm' was equipped with spirituality, bachelorhood, being alone and leading a solitary life in seclusion were more appropriate for the times and conditions of his ummat and for his companions. Priests were ordering everyone to become monks and to lead a solitary life. They presumed that approaching Allâhu ta'âlâ and being in His way could only be

CHART III

Christian year	Hijrî year	Christian year	Hijrî year
1323	724	607	-14
1356	758	640	20
1388	791	672	53
1421	825	705	87
1454	859	737	120
1486	892	770	154
1519	926	802	187
1551	959	835	221
1585	994	868	255
1617	1027	900	288
1650	1061	933	322
1682	1094	965	355
1715	1128	998	389
1748	1162	1030	422
1780	1195	1063	456
1813	1229	1095	489
1845	1262	1128	523
1878	1296	1160	556
1911	1330	1193	590
1943	1363	1226	624
1976	1397	1258	657
2008	1430	1291	691

CHART IV

0 1 2 Dec.	3 4 Nov.	5 6 7 Oct.	8 9 10 Sept.	11 12 13 August	14 15 16 July
17 18 June	19 20 21 May	22 23 24 April	25 26 27 March	28 29 30 Feb.	31 32 33 34 Jan.

achieved by living alone and by not getting married. Hadrat Muhammad Mustafâ 'sall-Allâhu 'alaihi wa sallam' possessed all

spiritual and material realities and superiorities; hence, being alone or being together with others, being single or getting married have been equally useful for his Ashâb and for his Ummat. Therefore, both ways are appropriate for his Ummat, the moderate way being preferable. Since priests were ordering everyone to live like monks and to abstain from marriage, the Prophet Muhammad Mustafâ 'sall-Allâhu 'alaihi wa sallam', in order to terminate this way of life, prohibited his Ashâb (Companions) to live a bachelor life, by saying, "**Islam does not contain monkhood**." He said in another hadîth-i-sherîf: "**Getting married is my sunnat; whoever does not follow my sunnat is not one of my Ummat**." Numerous similar hadîth-i-sherîfs annihilated the wrong ideas imposed on the minds of people. Also the thought, "Allâhu ta'âlâ can only be approached by living like a monk," was removed from the hearts. People who lived during the first two hundred years, which was the time of the Ashâb al-kirâm and the Tabi'în 'radiy-Allâhu ta'âlâ 'alaihim ajma'în', knew that these hadîth-i-sherîfs were said in order to refute the wrong allegations of priests. When this era was over, different hadîth-i-sherîfs were emphasized. These hadîth-i-sherîfs informed us that there are good aspects to bachelorhood and to married life depending on the special situations of people involved. Rasûl 'alaihissalâm' said: "**After two hundred years, the best of you is the one who is hafîfulhâz**." When he was asked the meaning of hafîfulhâz he said: "**The person who has no wife or child**."

Great scholars like Bishr al-Hâfî, Bâyazîd al-Bistâmî and Abul-Huseyn Nûrî were all bachelors. This hadîth-i-sherîf reveals the honour and superiority of these great scholars and those like them among people who lived after the two hundred years after the Hijrat.

The second reason: The Ashâb al-kirâm, Tabi'în and Taba al-tabi'în lived in the best of times; thus, their belief (îmân), patience (sabr), asceticism (zuhd), and tawakkul were very strong and valuable. The following hadîth-i-sherîf praises them by saying: "**The best of times is my era. Next comes the time which is next to mine. Next are the Muslims of the era next to them. Thereafter, lying will become a widespread practice.** (Some) **people will bear false witness even without being asked to do so**." The nafs of these great personalities would not attach themselves to the means which the Sharî'at disliked, and would not incline to earn through ways of harâm, because being close to Rasûlullah 'sall-Allâhu 'alaihi wa sallam' and attending his sohbat had enhanced their tawakkul, zuhd, and ridâ. However, later generations failed to equal them.

The third reason: Hadrat Muhammad Mustafâ ‘sall-Allâhu ’alaihi wa sallam’ knew through the nûr (light) of prophethood and through the correct firâsat (intuition) that the religion of Islam would be spread throughout the world by the Ashâb al-kirâm, Tabi’în and Taba al-Tabi’în ’radiy-Allâhu ta’âlâ ’anhum ajma’în.’ He encouraged marriage so that those who would spread the religion of Islam throughout the world, and those with whom the Islamic religion would be strenghthened, would multiply.

For these three reasons, marriage was necessary during the time of the Ashâb al-kirâm, Tabi’în and Taba at-Tabi’în ‘alaihimurrîdwân’. As for their successors; it was equally appropriate for them to stay unmarried; therefore, when Sufyân al-Sawri ‘rahmatullâhi ’alaih’ heard the above-mentioned hadîth-i-sherîf, he said, “Wallah, it is halâl to be single in this time.” When they asked Bishr al-Hâfî the reason for his being unmarried, he answered, “I already have a nafs that I am trying to divorce. How could I add another one to it?”

Today it has become increasingly difficult to earn a living that is halâl and to protect oneself from the harâms. Both piety and logic would disallow any cogency in getting yourself an unwitting accomplice in submerging yourself in an inexorable world of harâms. Nevertheless, if one’s lust becomes uncontrollable, one should try to reduce its intensity by fasting. If one cannot decrease its strength by fasting then marriage becomes obligatory (fard) for him. [If one is afraid of being cruel to one’s wife, it will be tahrîmî makrûh for one to get married. Also people who are in danger of being deceived and led to harâms by their nafs when they are among lowly women who do not cover themselves properly and who expose their awrat parts to men, should get married. It is fard (obligatory) for this type of person to find a chaste Muslim girl and marry her. Young people who are not so desperate to get married should first equip themselves with knowledge and beautiful moral qualities, and get married only after acquiring sufficient knowledge about women, such as their menstrual and puerperal periods.] The appropriate time for marriage for a Muslim man is after he learns Islam, and after he trains his nafs on how to obey Islam, and after he acquires good moral conduct and becomes a nice-tempered person, and also, after he improves his wisdom. After fulfilling all these conditions, in order to follow the sunnat, he should marry a girl who has manners, modesty, and good moral conduct, sufficient Islamic knowledge, and who is obedient to Islam and who covers herself compatibly with Islam when she goes out. He should look for a girl who has chastity

and who cares for her religion. Wealth and beauty should not be his priorities. He should not opt for wealth and beauty at the sacrifice of chastity and piety. In a hadîth-i-sherîf Rasûlullah 'sall-Allâhu 'alaihi wa sallam' said: **"One marries a woman either for her wealth or for her beauty or for her religion** (her piety). **You choose the one who is religious. A person who marries a girl because of her money will not be able to possess her money; a person who marries a girl only for her beauty will be deprived of her beauty."** It would be the ideal if one can find a girl who is beautiful and pious. It is not permissible for a Muslim girl to marry a man who is a disbeliever. When she intends to marry him, she becomes an apostate. It would be a marriage between two disbelievers. Both of them would have to renew their îmân and nikâh.

Seeing the girl before the nikâh is a sunnat; also it will facilitate a good relationship between the mates during marriage. One should search for a sâliha (pious) girl who has good manners, who has a noble ancestry, and who is fertile. Scholars advise against four types of women:

1 - A divorced woman who lived comfortably with her former husband and now is longing for those days and recollecting them.

2 - One should not marry a girl who brags about her wealth, social status, or ancestry.

3 - One should not marry a girl who will distribute her husband's property among her own relatives or acquaintances.

4 - One should avoid marrying a woman who is reputed to be immodest and would cause scandals.

A hadîth-i-sherîf which states, **"Do not smell roses that grow on dunghills,"** commands us not to marry a base and immoral person. [A young man married a girl in Bukhâra (a city in central Asia). The first night the bride asked the groom if he had learned the knowledge of haidh (menstruation). The young man answered in the negative. The bride then said, "Allâhu ta'âlâ commands, **'Protect yourself and those under your command from Hell-fire!'** How can an ignorant man protect them?" The young man liked her statement so much that he entrusted his bride to Allâhu ta'âlâ and departed to study. He studied at Marw for fifteen years. He also studied under Imam al-Muhammad 'rahmatullâhi ta'âlâ 'alaih' memorizing everything in six years, and came back to his wife as an 'âlim (scholar). His teacher named him as **Abû Hafs al-Kabîr** rahmatullâhi ta'âlâ 'alaih.']

A person who plans to enter into a marriage should make

istihâra several times; then, he should trust himself to Allâhu ta'âlâ and entreat Him to help and protect him from being interfered with and deceived by his nafs and by wicked people.

One should strive to perform the nikâh in agreement with the four Madhhabs. For making a valid and correct nikâh according to Shâfi'î, Hanbalî and Mâlikî Madhhabs, the first condition is that the walî of the girl has to give permission to her even if she is beyond the age of puberty. 'Friend' is the lexical meaning for the word 'walî'. If it is used in the subject of Aqâid (belief), it means 'ârif-i-billah. If it is used in the subject of Fiqh then it means a (grown-up) male relative. According to these three Madhhabs the walî is one's father. If you do not have a father, then the walî is your father's father, and after that the walî is your paternal great grandfather. If you do not have paternal ancestry, then your walî is your brother. If you do not have a brother, either, then the walî is your brother's son, next to whom is his son. If you do not have any of these, then your walî is your uncle. If you do not have that one, either, then the walî is your uncle's son and after that your uncle's grandson. If you do not have any of these relatives then your walî will be the qâdî, [i.e. an 'âdil judge who leads a life agreeable with the Qur'ân al-kerîm.] The order of priorities in being a walî in matters of marriage is the same as its order in matters of inheritance after death. However, according to the Sâfi'î Madhhab, the son or son's son cannot be a walî. According to Imâm al-Muhammad and to the Hanbalî Madhhab, after the paternal fathers the son and thereafter the son's son will become a walî. According to the Shaikhayn (Imâm A'zam and Imâm Abû Yûsuf), the son and the son's son will become the walî before the paternal fathers. In the Hanafî Madhhab the walî's permission is not an essential condition for the marriage of a girl who has reached the age of discretion and puberty. It is mustahab before the nikâh to ask for the permission of a girl who has passed the age of puberty. The person to whom she gives her permission becomes her wakîl. If the nikâh is performed without her permission, she is free to accept or to reject it. If she rejects it, the nikâh becomes void. A woman can get married either on her own or by proxy, by her wakil or by her walî. [In the Hanafî Madhhab, marriage of an orphan without any male walîs can be arranged by her mother.]

The second condition of nikâh: It is necessary in the Hanafî Madhhab to have two Muslim witnesses [even if they are known to be fâsiq Muslims] during the offer and acceptance. Two Muslim men, or one Muslim man and two Muslim women, who have

already reached the age of discretion and puberty should be present at that moment and they should hear the offer and the acceptance. In the Shâfi'î and Hanbalî Madhhabs witnesses must be males and they should not have publicly known grave sins. In the Hanafî Madhhab beside the wakîl or the walî one man and two women can also be witnesses. In the Maliki Madhhab a witness is not necessary but the walî must be present at the nikâh and the nikâh must be announced, and acquaintainces must be informed about the nikâh.

The third condition of nikâh is the offer and its acceptance. In other words, a contract of marriage should be made. In the Shâfi'î and Hanbalî Madhhabs the marriage contract is agreed upon between two men. One of the two men is the groom or his wakîl, and the other one is the bride's walî or wakîl. They make a marriage contract by saying such words as nikâh, husband, or wife, or by saying similar other words that are used for this purpose. In these two Madhhabs if the bride is not a virgin, then her permission also is needed.

It is written in the book **Ni'mat-i islâm**: "In the Hanafî Madhhab a woman and a man who are free and beyond the age of puberty can get married by themselves in the presence of two witnesses. Their nikâh can also be performed in the presence of one of them and by the wakîl of the other party, or by the wakîls of both parties. The wakîl has to be a discreet Muslim with an ability to distinguish right from wrong but need not to be a male or be at the age of puberty. As one appoints someone as one's wakîl, one does not need any witnesses. For this, first the wife gives her proxy (wakâlat) for renewing the nikâh on her behalf to her husband by saying, "Whenever you divorce me, I have authorized you as my wakîl to marry me to yourself," and then if the husband accepts her proxy; when he divorces her with one bâin talâq[1] he says, "I have married so and so, (saying the name of his wife), to myself, whom I divorced earlier," in the presence of two witnesses, his nikâh becomes sahîh again. [The widely-known renewal of the imân and nikâh of the whole jamâ'at by the recitation of a duâ (prayer) by the individuals who make up that jamâ'at is based on this fatwâ.] When both the person and his wakîl are present during the nikâh, the wakîl becomes a witness; likewise, when the bride and her walî are both present at the nikâh her walî becomes a

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[1] Talâq (divorce) is explained in the fifteenth chapter of the sixth fascicle of **Endless Bliss**.

witness. When a father marries his daughter to someone in her absence without informing her and without a mahr and tells her about it later, if she stays silent, the nikâh becomes sahîh and it is necessary to give her a mahr al-mithl. A person can be a walî or wakîl of both parties, or one can be a walî for one party and a wakîl for the other party, or one can take one's own place (as one of the parties) and also can be the walî or wakîl of the other party. If a person who has appointed someone as a wakîl says that her wakîl is free to do anything and everything on her behalf then the wakîl can appoint someone else as the wakîl. A child who has not reached the age of puberty can be given in marriage by her closest walî. The walî for the child is his/her asabas (relatives in accordance with the earlier-mentioned sequence). If there is no asaba then the mother will become the walî. If someone who is not a wakîl [for example, one of the walîs of a boy or a girl who is at the age of puberty, or someone who is not one of the kindred] marries him/her to someone whom they do not know and tells him/her afterwards, if he/she does not refuse it when he/she hears it, then the nikâh becomes sahîh. When the child reaches the age of puberty, he/she can refuse the nikâh which was performed by his/her walî other than his/her father and father's father.

In the Hanafî Madhhab it is not obligatory to say the words "tazwij or nikâh" as the nikâh is performed. A nikâh will also become sahîh by such expressions as: "I have given you as a present or gift," "I have given you," "I have given you as a charity," "I have sold," "I have bought." If both parties use these types of expressions, then they have to use the perfect tense of the verbs, (i.e. the tense that shows that the action has been done.) If one party says it in the imperative form and the other party uses the perfect tense, then also will the nikâh be sahîh. A walî can marry a small girl who is under the age of puberty to her kufw (her equal in rank or social status). In the other three Madhhabs only the father can give in marriage his daughter who is a virgin and over the age of puberty. She does not necessarily have to be under the age of puberty for being given in marriage by her father.

It is written in the book **Mîzân al-kubrâ**: "In the Shâfi'î and Hanbalî Madhhabs the walî has to be present during the nikâh; otherwise, the nikâh will not be sahîh. A woman cannot be a walî. In the Hanafî Madhhab, a woman can get married without a walî and can appoint someone her deputy, yet if a woman marries someone who is not her kufw, her walî can interfere and stop the marriage. In the Mâlikî Madhhab, if a woman is one of the

notables of the town and is rich, then her walî has to be present at the nikâh. If otherwise, she can get married through her wakîl. In the Shâfi'î and Hanbalî Madhhabs a fâsiq Muslim cannot be a walî, but in the Hanafî and Mâlikî Madhhabs a fâsiq Muslims also can be a walî. In the Shâfi'î Madhhab if a closer walî is a safar distance away (around 104 km), then a farther walî can give her in marriage. (A farther walî is one who is later in the priority of being a walî.) In the other three Madhhabs a farther walî cannot give her in marriage. In the Hanafî and Mâlikî Madhhabs if nobody knows the whereabouts of the closer walî, then her brother can give her in marriage, but in the Shâfi'î Madhhab he cannot give her in marriage. In the Shâfi'î Madhhab the father and the father's father can force a virginal girl to marry a choice of theirs. In the Mâlikî and Hanbalî Madhhabs her grandfather can marry her to someone of his own choice, but not by force. In the Hanafî Madhhab a girl who is above the age of puberty cannot be given in marriage by anyone without her consent. In the other three Madhhabs a small girl cannot be given in marriage by anyone except her father. In the Hanafî Madhhab all asabas (paternal relatives) can give her in marriage but she can refuse the marriage when she reaches the age of puberty. In the Hanafî and Mâlikî Madhhabs her walî can marry her to himself. In the Hanbalî Madhhab a walî can marry her to himself through his wakîl. In the Shâfi'î Madhhab he cannot marry her even through his wakîl. In the three Madhhabs, when a woman and her walîs permit, she can marry someone other than her kufw, but in the Hanbalî Madhhab she cannot marry someone other than her kufw. In the Shâfi'î and Mâlikî Madhhabs a walî cannot marry her to someone who is not her kufw of her own accord. In the Hanafî Madhhab he can do so.

In the Shâfi'î Madhhab kufw is obligatory in lineage, crafts, piety, flawlessness, and freedom. In the Mâlikî Madhhab kufw is necessary only in piety. In the Hanafî Madhhab, kufw applies to piety, lineage and wealth. In all (four) Madhhabs, the first condition is for the man to be a Muslim and the woman not to be a polytheist. In the Hanafî Madhhab, if a woman marries someone who is not her kufw, her walîs can separate her. In the other three Madhhabs, if her walîs do not give her permission, the nikâh will not be sahîh anyway. In the Mâlikî Madhhab a woman who plans to marry someone of her kufw for a mahr which is less than the mahr al-mithl can be stopped by her walîs. According to the other imâms her walîs cannot stop her from

such a marriage. In the three Madhhabs, a nikâh which is performed by a farther walî in the presence of a closer walî will not be sahîh, but in the Mâlikî Madhhab only the nikâh of a virgin girl which is performed by a farther walî in the presence of her father will not be sahîh.

If a man states that “So and so (name of the woman) is my wife” and she confirms him their marriage will be valid according to three Madhhabs. In the Mâlikî Madhhab, however, their nikâh will not be valid.

In three Madhhabs, a nikâh performed without witnesses will not be sahîh. If it is performed in the presence of witnesses it is permissible to keep it a secret. In Mâlikî Madhhab, the nikâh (without witnesses) will be sahîh, but it has to be announced among the acquaintances. In the Shâfi’î and Hanbalî Madhhabs, the two witnesses (who are necessary for the nikâh) have to be ’âdil[1] men. In the Hanafî Madhhab, the nikâh will be sahîh also through the testimony of one man and two fâsiq women. In (the other) three Madhhabs, when a Muslim man marries a zimmî woman, the two witnesses have to be Muslims. In the Hanafî Madhhab the two witnesses can be zimmîs. Conversation between the parties is a sunnat during the nikâh. In the Shafi’î and Hanbalî Madhhabs it is compulsory to pronounce the word ‘Tazwij’ or ’Nikâh.’ In the Hanafî Madhhab a nikâh will be sahîh by saying any kinds of words expressing possession. This matter in the Mâlikî Madhhab is similar to that in the Hanafî, but the mahr also has to be pronounced.

If one says, “I have married my daughter to so and so (name of the person)” and that person hears this statement and says that he has accepted the nikâh, according to all ’âlims (scholars), the nikâh will not be sahîh. According to Abû Yûsuf ‘rahmatullâhi ta’âlâ ’alaih’ it will be sahîh.

In the Shâfi’î Madhhab if one says, “I have married my daughter to you,” and that man says, “I have accepted it,” the nikâh will not be sahîh. He has to say, “I have accepted her nikâh,” or “her tazwîj,”, but according to the Hanafî and Hanbalî Madhhabs and another narration conveyed on the authority of Imâm in the Shafi’î ‘rahmatullâhi ’alaih’, the nikâh will be sahîh.

Imâms ‘rahmatullâhi ta’âlâ ’alaihim ajma’în’ of three Madhhabs said that it would be jâiz (permissible) to marry a non-

[1] Please see the tenth chapter of the fourth fascicle of **Endless Bliss**.

Muslim woman believing in a heavenly book by accepting her from her walî, but in the Hanbalî Madhhab it is not jâiz.

When a man marries a woman on condition that he will not marry another woman besides her, or that he will not take her somewhere else in the future, according to three Madhhabs his nikâh will be sahîh and it will not be necessary for him to keep his promise, yet in this case he will have to pay her the mahr al-mithl. Imâm-i Ahmad ibn-i-Hanbal ‘rahmatullâhi ta’âlâ ’alaih’ said: “The man will have to abide by his promise; if the man does not keep his promise, the woman can dissolve the marriage.”

When a father wants to get married, it is not obligatory for his son to marry him (to a woman), in the Hanafî and Mâlikî Madhhabs. [It is advisable to help one’s father get married.] In the Shâfi’î and Hanbalî Madhhabs, the son has to help his father to get married.

In the Hanafî Madhhab, a woman will have the right of khusûmat to dissolve the marriage if the man is incapable of the sexual act. In the other three Madhhabs, she can dissolve the marriage if the man has any kind of deficiency. If these deficiencies occur after the nikâh, she can still dissolve the marriage. If there is a deficiency in the woman, according to the Hanbalî Madhhab and a narration transmitted on the authority of Imâm Shâfi’î ‘rahmatullâhi ta’âlâ ’alaih’, the man can dissolve the marriage; according to the Mâlikî Madhhab and another narration transmitted on the authority of Imâm Shâfi’î ‘rahmatullâhi ta’âlâ ’alaih’, he cannot dissolve the marriage.” Translation from the book **Mîzân al-kubrâ** ends here. Khusûmat means to file a complaint against someone. A woman who does not have any defect can apply to the court to dissolve the marriage if she finds out that her husband is **innîn**, even if a long time passes after their marriage. If the man denies it, the judge sends the woman to an obstetrician’s to be examined. If the doctor says that the woman is virginal, one year later that examination is performed again. If she is found out to be virginal again the judge separates them. In this state of separation the exact mahr and iddat are obligatory. Though the woman will lose her right of khusûmat after one sexual intercourse, it is sinful not to have any more sexual intercourse. Innîn is a man who is incapable of having sexual intercourse because of old age, or having trouble with his genital organ or magic. They cannot apply to the court to dissolve the marriage for any other reason. It is written in the book **Ibn al-’Âbidîn** and in the fatwâs of **Hâniyya** and **Tâtârhâniyya**, and in the

book of Tafsîr entitled **Abullays**[1] that a nikâh is not sahîh if a condition to be fulfilled beforehand is stipulated. A good example for this is to say, "I have married you provided that my father gives his consent." It is written in the book **Ibni 'Âbidîn**, at the end of the chapter headlined 'Muharramât' that, if she says, "I have married you if my father consents to it," and if her father is present there and says that he has consented to it, then that nikâh will become sahîh. Another example of a conditional case is explained in the books **Ibni 'Âbidîn, Kitâb-ul fiqh alal-Madhâhib-il arba'a**, and **Nimat al Islam.** While explaining how to perform a nikâh, the authors of these books say that if a woman says to a man, "I am marrying you on condition that I will be free to divorce you whenever I choose to," and if the man states that he accepts her condition; then, both the nikâh will be sahîh and she also will hold the right of divorce." If a woman who does not have a husband or a mahram relative wants to go on a long-distance journey, such as on Hajj, or if hulla has become necessary she can marry someone by the above-explained conditional manner. It is seen from these examples that Islam's criticizers who say that in Islam only men hold the right to divorce or who say that women are like playthings in the hands of men are quite wrong. They do not know anything about Islam. By way of falsification and sophistry, those liars and slanderers are estranging youngsters from Islam. The quotation given above shows clearly that a man can commit the right to divorce to the charge of his wife (by way of **tafwîd)** during the performance of the marriage contract, and exercising her prerogative she can get a divorce whenever she desires. Look up the word "tafwîd" at the end of the chapter about talâq for further information.[2]

Any fâsid (wrong, unacceptable) condition stipulated during the contract of marriage is null and void, although the nikâh thereby performed will be sahîh (valid). For example, if the man says, "I have married you on condition of not giving a mahr to you," the nikâh will be sahîh, but the condition will be invalid and it will be necessary to give her mahr al-mithl.

MAHR - Kitâb-ul fiqh 'alal-madhâhib-il arba'a states: "The mahr (or mehr) comprises things like gold, silver, banknotes, or

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[1] Written by Abbullays Semerkandî 'rahmatullâhi ta'âlâ 'alaih', (d. 373 [983 A.D.])

[2] Please see the fifteenth chapter of the sixth fascicle of **Endless Bliss**.

any kind of property or any kind of benefit that is given by a man to the woman he is to marry. There are two types of mahr. Paying the first type of mahr becomes wâjib immediately after the nikâh is performed and half or all of it is liable to fall. This type of mahr is termed **mahr-i mu'ajjal**. The amount of the second type of mahr is determined while performing the nikâh, but its payment will be wâjib after one of the three things happens, and it is not abatable. This type of mahr is called **mahr-i muejjel.** If neither type of mahr is specified during the nikâh, the **mahr-i mithl** has to be paid later. If one's wife does something that causes a separation such as being a renegade, or causing **hurmat-i musâhara,** the man never pays any amount of the mahr-i mu'ajjal. But, if a man divorces his wife, or if he does something that causes a separation, the man has to pay half of the mahr-i mu'ajjal, and the other half falls. Three things make paying the mahr-i muejjel wâjib. These three things are waty (consummation); halwat (staying together in privacy); and death of one of the partners. When any one of these three things occurs, the unpaid mahr-i-mu'ajjal will not fall, and its amount cannot be decreased. Once a sexual intercourse has taken place or the wife and husband have stayed together in privacy, the mahr has to be paid completely when the time determined during the nikâh comes, or in case of a separation. If the wife dies, the mahr is paid by the husband to her heirs. If the husband dies, the wife is paid from the husband's inheritance. Being together in privacy with one's wife, which is legitimate, is different from being together in privacy with a nâ-mahram woman. This latter case is harâm (forbidden). Being together in privacy with one's wife, which is legitimate, does not virtually take place if they are accompanied by anything that can prevent, either sentimentally, or Islamically, or naturally, their having sexual intercourse. In cases such as when one of them becomes ill or wears ihrâm or is performing a namâz that is fard or fasting in Ramadân or if the woman is in a period of menstruation or lochia, or if the couple is accompanied by a discreet child, this halwat does not take place. The wife is free to give her mahr to her husband, or if he is dead, to her husband's heirs as a present. The wife's father does not have the right to give his daughter's mahr to his son-in-law as a present." It is written in the book **Ibn-i 'Âbidîn**: "The wife can transfer her creditor to her husband to be paid with the mahr which she has not been paid yet. She can donate her mahr to someone else as a present and assign him as her proxy to take her mahr from her husband. For, the money to be taken from the debtor can be presented only to the

debtor. For presenting it to someone else, that person must be assigned as proxy to take the money.”

It is written in the book **Fatâwâ-al-Hindiyya**: “If during the performance of nikâh only one (type of) mahr is pronounced but the amount of the mahr al-mu’ajjal is not specified, a portion of the amount determined will become the mahr al-mu’ajjal. This portion will be determined in accordance to the customs and to the social status of the woman. The entire mahr will be mu’ajjal if it is determined to be so (in the contract for nikâh). If the entire mahr is said to be mahr-i muejjel and a certain date for payment is appointed, when the date of payment comes the wife cannot refuse to carry on her conjugal duties for the purpose of getting her mahr. If the mahr will become a mahr-i muejjel one year later, and if the husband sets the condition during the nikâh that he will have sex with her before the completion of one year, it will be jâiz to have sex before the payment of mahr. According to Imâm-i Muhammad ‘rahmatullâhi ta’âlâ ’alaih’, even if he does not stipulate the condition the case will be the same. If he stipulates the condition that he will be allowed to have sex before paying the mahr-i mu’ajjal, it will be jâiz (permissible). If a portion of the mahr is mahr-i-mu’ajjal and the other portion is mahr-i-muejjel, even if the sexual act has been performed, the wife can refuse to go on a long-distance journey with her husband, or she can refuse to have sex or halwat with him before the mahr al-mu’ajjal is fully paid.

During the process of nikâh, it is permissible according to the consensus of scholars to stipulate a condition for the mahr-i muejjel to be paid on a certain date. The date of payment is awaited in case of (an earlier) divorce. If the date of payment is not appointed it is paid as soon as divorce takes place. In a rij’î divorce when the husband resumes the nikâh, the mahr does not become muejjel again. Whether small or old enough, when a girl who gets married is virginal, her father or grandfather or the qâdî (judge) can exact her mahr from the husband. No one else can exact it. These people cannot exact it, either, without the consent of the virgin who gets married.”

A hadîth-i sherif in the book **Riyâdunnâsikhîn** states: “**A man who performs a nikâh with the intention of not paying the mahr will be resurrected among thieves on the Day of Resurrection**.”

It is sahîh to perform a nikâh without mentioning the **mahr**, or even by stipulating the condition that no mahr will be paid, but in this (latter) case the condition is invalid. In this case, the husband will have to pay the **mahr-i mithl**. It is paid as much as the amount

her paternal (female) relatives were paid. If some of the mahr is **mahr-i mu'ajjal**, this is paid before the waty or the halwat. If the whole mahr is **mahr-i muejjel,** or if the words mu'ajjal and muejjel were not pronounced during the performance of the nikâh, its payment will be wâjib after the waty or the halwat, whenever the wife asks for it, or, if she does not ask for it, when one of them dies. The heirs can take or give it, (depending on which one of the parties is dead). The value of the mahr should not be less than ten dirhams of silver. Today, silver coins are not used. We use banknotes that are equivalent to gold. Hence, it should not be less than one mithqâl [, or five grams,] of gold, [i.e. two-thirds of a gold coin], which is the equivalent of seven mithqâl, or ten dirhams, of silver. The Persian book **Jawâhir-ul-fiqh**[1] states that the mahr should not be less than one gold coin. It is understood that, in those days, one gold coin weighed one mithqâl. If the mahr pronounced is less than the aforesaid amount, it still must be paid as much as two-thirds of a gold coin, or the equivalent amount of the otherwise nominated property. A wife can refuse the wedding party or halwat or a long-distance journey with the husband before she is paid her mahr-i-mu'ajjal. If she refuses these things, her husband cannot refuse to supply her her daily necessities of life. If the whole mahr is muejjel [it can be delayed, will be paid later], the wife cannot refuse them, even if she has not yet been paid. She can also leave the house without her husband's permission and set off for a long-distance journey with one of her mahram relatives if she is not paid her mahr al-mu'ajjal. If a wife, after receiving ten gold coins as her mahr, gives them back as a gift to her husband [but does not say, "I give my mahr as a present to you,"] and later the husband divorces her before the halwat, then it becomes necessary for her to pay him five other gold coins. Since gold will not have ta'ayyun[2] by way of ta'yîn, the woman will not have given her mahr back to her husband by handing those ten gold coins to him. Because the divorce took place before the halwat and because half of the mahr belongs to the woman by rights, she has to give the other half of it back to the man. If she had not received her mahr from her husband and said that she had made it halâl for him, or if the mahr had been property other than gold, and if she had given

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[1] Written by Muhammad bin Mensûr Bukhârî 'rahmatullâhi ta'âlâ 'alaih'.

[2] Please see the twenty-ninth chapter, that is entitled 'Bey' and Shirâ' and which deals with buying and selling.

the property back to her husband as a gift and thereafter the divorce had taken place, in these cases, it would not have been obligatory for her to give anything to the man. For, when the property given back is something that has (the attribute of) ta'ayyun when it is made ta'yîn of, the case is the same as if the woman had not taken possession of the mahr.

Let us repeat once again that talking about the mahr during the process of a nikâh is not an essential condition for its being sahîh. If a man who is ignorant in Islam alleges, "In Islam, man has to pay mahr to a girl so that he can marry her. Consequently, a woman is something for sale like merchandise," he will have slandered the Islamic religion. The mahr in Islam is not for getting married, but it is for facilitating a happy and harmonical life after marriage; it also protects the woman's rights and freedom; it prevents her from being a plaything in the hands of ignorant and bad-tempered men. With the fear of paying the mahr to his wife and the maintenance for the children every month, a man cannot divorce his wife. Courts in countries where this fear does not exist is filled up with files for divorce. For this reason, it is better for a girl planning a marriage to demand very little mahr from a man who knows and respects Islam's beautiful moral system and the value it attaches to women; otherwise, it is advisable to demand a great amount.

WOMEN WITH WHOM NIKÂH IS NOT PERMISSIBLE: It is harâm to marry twenty-five categories of women. They are called **mahram** persons. Eighteen out of the twenty-five types are eternally mahram. Seven women out of the eighteen are **zî rahm al-mahram,** which means one's close relatives by blood and lineage. It is eternally harâm to mary one's mother, one's mother's or father's mother, one's daughter, one's son's daughter, one's daugter's daughter, one's sister, one's sister's daughter, one's brother's daughter, one's paternal and maternal aunts. It is harâm to marry any one of them even unto death; this prohibition is valid till one dies. This means to say that a woman can never marry her father, son, brother, maternal and paternal uncles, brother's or sister's son. It is also harâm to marry any one of these seven kinds of relatives even if they are not relatives by blood but relatives by suckling or by adultery.[1] Only, one can marry one's son's milk-sister and one's brother's milk-mother (wet nurse). In the Hanbalî

[1] Please see the seventh chapter of the sixth fascicle of **Endless Bliss** for the milk-tie.

Madhhab anyone who sucks (from the same mother), regardless of age, becomes a milk relative, but according to the imâms 'rahmatullâhi ta'âlâ 'alaihim ajma'în' of the other three Madhhabs, if they suck milk after the age of two and a half, they will not become milk relatives.

It is also eternally harâm to marry four kinds of women who become one's relatives after marriage. If one has already performed the nikâh, or had adultery with a woman, then he can never marry her mother, her mother's mother, or her father's mother. When a man has sex with his wife, he can never marry the daughter which she had from another husband. A man can never marry a woman with whom his father or his own son made a nikâh, i.e. his step-mother or his daughter-in-law. A woman can never marry her step-father, stepson, father-in-law or son-in law. It is permissible to marry an "Âkhirat-sister" or "Âkhirat-brother", or brother-or-sister-in Tarîqat, or "Âkhirat-mother." The status of these people is different from the status of one's own sister or mother. It is harâm for one to see their heads, hair, arms, legs, to chat with them, to stay alone with them in the same room, or to travel long distance with them. These things are not halâl in any Tarîqat. He who says that they are halâl becomes a disbeliever, a zindiq.

There are seven more women whom a man cannot marry due to temporary situations. When these temporary situations cease to exist he can marry them. Five of them are harâm due to a nikâh. A man cannot chat or marry the sisters of the girl with whom he has made nikâh. If the woman whom he has already married dies, or if he divorces her, then he can marry her sister. These girls are called the man's 'sisters-in-law' (baldız in Turkish). The man is called the girls' 'brother-in-law' (enishte). The man's brothers are the 'brothers-in-law' (kayin birâder) of the girl who is married by way of nikâh to the man, and the girl, in turn, is their 'sister-in-law' (yenge in Turkish). A woman cannot stay alone in the same room with any one of her enishtes or kayin birâders; nor can she go on a long-distance journey with them. In other words, a woman's enishtes or kayin birâders are not her mahram relatives.

As long as a man is married to a woman, it will be harâm for him to marry her paternal and maternal aunts, or her sisters' or brothers' daughters. It is also harâm to marry these five women when they are the wife's milk-relatives. In the Hanafî, Mâlikî and Hanbalî Madhhabs the women who are harâm for one to marry because of the sex act one performs with one's wife, will also

become harâm to marry in case of an illegal sex act (adultery) one performs with a nâ-mahram woman. However, according to the Shâfi'î Madhhab these women do not become prohibited for one to marry because of the illegal sex act. One can marry a woman with whom one has had an illegal sex; as well, anyone else can marry her. Paternal and maternal uncles' or paternal and maternal aunts' daughters and one's brother's wife are not **zî rahm al-mahram;** in other words, these five female relatives of a man are nâ-mahram to him; hence, it is harâm for him to look at their uncovered parts which must be covered; it is harâm for him to have halwat with them or to talk to them when their heads and arms are uncovered. **Halwat** means for a man and a woman to stay alone together in a private home. It is also harâm to make halwat with a kâfir woman (non-Muslim woman), and with somebody else's female slave (Jâriya). These five women are nâ-mahram to him; consequently, it is permissible for him to marry them[1]. It is not harâm. However, it is tanzîhî makrûh to marry the first four (of the five) women. It is written in **Kimyâ-i-sa'âdat** as follows: The eighth one of the eight qualities considered a sunnat to be possessed by a prospective wife is that she should not be one from among the close relatives. In a hadîth-i-sherîf Rasûlullah 'sall-Allâhu alaihi wa sallam' said: "**Their children will be weak and unhealthy**." The same information is written in the book **Murshîd al-mutaahhilîn,** which is written in Turkish. It is not makrûh to marry the daughters of these four women. Hadrat Alî 'radiy-Allâhu 'anh' did not marry his uncle's daughter, but he married his uncle's son's daughter; therefore, it was not makrûh.

The sixth one of the seven women who are harâm to marry due to a temporary situation is a mushrik woman. Mushrik means someone who is a disbeliever without a Heavenly Book. Christians are showing reverence to icons and idols, prostrating themselves before them, and entreating them. Some of them believe and say that the interpolated versions of the Bible in their possession are the copies of the origional 'Holy Book that God sent to Jesus'. "Jesus is the Messenger of God. God loves him very much and creates whatsoever he wants Him to," they say. Since a father loves his son very much, they call God 'Father' and Jesus 'Son'. They entreat Jesus to intercede for them. These Christians are called **Ahl-i-kitâb**. (People of the Book). They are not mushriks

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[1] It goes without saying that this permissibility is confined to situations wherein the so-called five women are not already or still married.

(polytheists). A second group of Christians say that "Jesus has the attributes of deity. Like his Father, he creates anything at will. He lives eternally." Entreating him with this belief means deitizing him, worshipping him. Belief of this sort is termed **shirk**, and a person who holds this belief is called a **mushrik**. Icons, idols, and crosses worshipped thereby are polytheistic symbols. Communists and masons (freemasons), murtadds (renegades), Buddhists, Brahmins and atheists are mushriks. If a mushrik becomes a Muslim or a disbeliever with a Heavenly Book, it will be permissible to marry her. When a man or a woman wants to marry a woman or a man, he or she should investigate thoroughly to know if the woman or the man is a Muslim or not. Although it is permissible for a Muslim man to marry a woman who is a disbeliever with a Heavenly Book, that is, a Christian or Jewish woman or a heretical woman, or a lâ-madhhabî woman, if they have not become mushriks, it is tanzîhî makrûh to marry one who is a zimmî, (i.e. one who lives in an Islamic country,) and tahrîmî makrûh to marry one who is a harbî, (i.e. one who lives in a country of disbelievers.) It is also permissible for a man who is married to a Muslim woman to marry (one of) these women. It is not permissible for a Muslim woman to marry a man who is not a Muslim. She becomes a renegade the moment she makes up her mind to marry a non-Muslim man. It is stated as follows in the book **Ni'met-i-Islâm**: "The witnesses for the nikâh of a person with a Heavenly Book do not necessarily have to be Muslims. A Muslim husband can prevent his Christian wife from going to church or making wine at home. He cannot force her to make ghusl at the end of menstruation or lochia. It is recommmendable for her to be properly attired, (i.e. in a manner prescribed by Islam.) It is permissible to marry a woman who believes in a Heavenly Book, (e.g. a (Christian,) while one already has a Muslim wife."

The seventh woman who is harâm to marry due to a temporary situation is a slave woman while a man is married to a free woman; yet it is permissible to marry a free woman while one is married to a slave woman.

It is not permissible for a man to greet these seven women or to acknowledge their greetings.

To marry someone else's wife is not permissible, but if she is divorced, and if she has waited through the period of iddat, it is permissible to marry her. It is written at the end of the chapter about iddat: "If a woman hears from an 'âdil Muslim that her

missing husband [who has been, say, put into jail, or taken prisoner in a country far away from his hometown,] is dead, or that he divorced her with three talâqs (triple divorce),[1] she will be free to marry any other man. It is written in the explanation of the tenth article of the book entitled **Majalla** that a missing man who is (at least) ninety years old is judged to be dead by the judge. If her first husband comes back the second nikâh (marriage) will be invalid, even if she had heard that the man had died, or she had received a letter from him informing her that he had divorced her with triple divorce [**Ni'mat-i Islâm**]. It is harâm for a free man to be married to more than four women, and for a slave man to be married to more than two women, at the same time. It is not necessary to take permission from the first wife in order to marry a second woman. If the first wife does not consent to her husband's second marriage, even if she says that she will kill herself, the husband can still marry the second woman. But it will be better if the husband gets the consent of the first wife. It will be even better if he gives up the second marriage in order to please the first wife. He will earn a lot of thawâbs (rewards) for his forbearance. It will be harâm for a man to marry even the first one if he cannot maintain justice or if he is cruel to her, or if he cannot earn enough money to support her. Please see the ninth chapter of the sixth fascicle of **Endless Bliss**. Shiites say that it is permissible to marry up to nine women. And Wahhabîs say that it is permissible to marry ten women. Hamidullah in his book translated into Turkish under the title **İslâma Giriş** (Introduction to Islam) has misleading comments on this subject.

It is sahîh for a man to marry a woman who is pregnant through adultery before the child is delivered. But it is not permissible for him to have sex with her until she delivers, and in this period it is not wâjib for the man to support her. It is not valid to marry a woman who is pregnant through nikâh until she delivers. It is permissible for the adulterer to marry, and also to have sex with, a woman with whom he has already committed adultery. The child which is born after the sixth month after the nikâh will be his own child. If the child is born before the sixth month and if he claims that it is his child then it will be his child. It is jâiz to marry and have sex before making istibrâ a woman who has already committed adultery with somebody else. The âyat, **"The**

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[1] Please see the fifteenth chapter of the sixth fascicle of **Endless Bliss**.

adulteress cannot be married by other men” was cancelled with the third âyat of Nisâ Surâ and with a hadîth-i-sherîf. A person can have sex with his wife who has committed adultery, without waiting until the end of iddat period.

Performance of the nikâh agreebly with the sunna: Two or more sâlih Muslim men gather together. There should be no women among the men. As well, the men and women should gather at separate houses for the wedding feast. It is harâm to show the bride to a nâ-mahram man, covered as she may be. A person who does not attach due importance to a harâm will become a disbeliever and his nikâh will be dissolved. At first, one man from each side should deliver a speech. Then the woman’s deputy (her wakîl) states the number of gold coins they demand for her mahr. If the man does not accept this amount, the parties negotiate and come to an agreement. Then the walî of the woman or her Muslim wakîl says the following:

“Bismillah walhamdu lillah, was-salâtu ’alâ Rasûlillah” and then says to the groom “I have given... (name of the girl) who is the daughter of.... (name of her father) to you for your wife. As her walî [or her wakîl], I have given... who is the daughter of....., for.... [say, ten Reshad gold coins] of **mu’ajjal** [that is, to be paid in advance] and for.... [say, twenty Reshad gold coins] of **muejjel** [that is, to be paid later] mahr to you for your wife.” If the groom is not present, he says these words to his wakîl, but in this case he does not say, “to you”; instead, he says, “to ... (name of the groom) who is the son of... (name of the groom’s father)”. These statements are named **îjâb,** which means offer. After this, if the groom is present, he answers as follows: “I have accepted this nikâh with this specified mahr for me.” If the groom is not present, his wakîl answers by saying, “I, as wakîl of so and so, have accepted this nikâh for.... (name of the groom) who is the son of ...... (name of the groom’s father) with this specified mahr.” It will be better to say the amount of the mahr when they answer. This answer is called **qabûl**. The Islamic nikâh is performed with this procedure of îjâb and qabûl. [It is mustahab to deliver a paper to the wife after writing the amount of mahr on it and putting down the signatures of the groom and the two witnesses. The mahr is a human right. In case one divorces one’s wife, one has to pay the mahr to the wife; otherwise one will be put into jail in this world, and into Hell in the Hereafter, in the next world. It would not be an easy job for many a person to pay, let’s say twenty gold coins or, if one Reshad gold coin is ten million liras, to pay about two

hundred million liras in cash, and to pay alimony to the mother for the children's maintenance every month, which in turn would mean to undertake the responsibility of maintaining a second family. As is seen, while giving the right to divorce to a man, Allâhu ta'âlâ has made it impossible for a Muslim to do it, by stipulating heavy conditions. Man's having the right to divorce is not something more than a means to warn women to be on their guard; it helps and supports man in his duty of conducting the family. The right to divorce seems to be in the hands of man, but in fact, it is always in the hands of the wife. When a Muslim man thinks of divorcing his wife, the fear of paying money, which can be afforded by very few people, the alimony, which will have to continue for years, or being put into jail in this world and into Hell in the world to come will loom before him like a mountain. When a woman wants to be divorced, she says she has given her mahr to her husband as a gift, or says that she has made it halâl for him; then she embarks on an unpleasant behaviour in order to provoke him to divorce her. Easy as it is for a woman to be divorced, a Muslim woman who is aware of the sacredness of family life and also the husband's rights on his wife does not want to commit the sin of extinguishing her holy nest and thus suffer misery and ignominy in this world and torment in the Hereafter. A woman divorced does not have to give anything to anybody. Her rich relatives have to care for her. She is cared for by the Bayt-ul-mâl in case she has no relatives. After divorcing his wife, a true Muslim has to work very hard in order to maintain his children and also to maintain his new family. The wrong, depraved and non-Islamic actions of irreligious, lâ-madhhabî and ignorant people should not be exploited as grounds for censuring Islam.]

For an Islamic nikâh to be sahîh (valid), both the groom and the bride have to be Muslims. That is, they have to know and believe the tenets of belief (îmân) and Islam. If there is doubt concerning their îmân, the person who will perform the nîkâh, after saying the Basmala, the (prayers of) hamd and salawât, mentions the six tenets of îmân and the five principles of Islam one by one and has the groom and the bride say them, too. Then he states the Sifât-i-dhâtiyya and the Sifât-i-thubûtiyya of Allâhu ta'âlâ, the important attributes of Prophets and angels, the teachings pertaining to grave and the Hereafter, respectively, and has them repeat. He has them say, "We believe, we have îmân," "I am a Believer, I am a Muslim, al-hamd-u-li-llâh." Then he must perform the nikâh, beginning with the groom or his wakîl. It is

stated as follows in **Radd-ul-muhtâr**: “When both the woman and the man are present, it is not permissible for them to perform the nikâh by writing. When they are not together, it is permissible for one of them to send a letter and the other read the letter in the presence of two witnesses and accept it verbally. It is not permissible if both parties state their parts in written form. The woman reads or explains the letter she has received from the man to two witnesses and says, ‘Be my witnesses! I have accepted to be his wife.’ The woman’s reading the letter to the witnesses is equivalent to the man’s proposing verbally in the presence of the witnesses.”

Ibni ’Âbidîn ‘rahmatullâhi ta’âlâ ’alaih’ makes the following explanation in his depiction of the witnesses for a nikâh: “Like in all sorts of contracts, presence of two witnesses is not necessary as you appoint someone your wakîl (proxy) for a nikâh. However, it is mustahab there to be two witnesses during any kind of contract. And their presence during the performance of a nikâh is an essential condition. It has been stated (by some scholars) that it is wâjib to have two witnesses during a loan contract. Although it is not an essential condition to prepare a written document in commercial proceedings, in proxy authorizations or in any other contracts, it is necessary during a loan contract and mustahab during the nikâh. In the proxy authorization and in the nikâh, it is necessary for the witnesses [or for the person to be authorized as the proxy] to know the woman. If they are present, it is recommendable that they see her face. If they hear her voice from another room, it will be permissible provided the woman be alone in the room. As the nikâh is being performed, the walî or the wakîl says only the name of the woman whom the witnesses know. If the witnesses do not know the woman, he (the walî or the wakîl) will have to say her father’s and grandfather’s names, too. To know the woman means to know whose daughter she is and which daughter she is (if she has sisters). It does not mean to know her person or outward appearance. Suppose a small girl’s father ordered someone to perform his daughter’s nikâh. When this person, who would be the wakîl now, performed the nikâh in the presence of someone else, it would be permissible if the father, too, were present. For the wakîl’s performing the nikâh would have been in the name of the father, and the father himself would have acted as a witness. It would not be permissible if the father were not present. When the father, or another wakîl, of a grown-up girl [who has reached puberty] performs the girl’s nikâh in the

presence of a man, it will be permissible if the girl, too, is present. For the statements made by the walî (the father) or the wakîl will have been made by the girl. The walî or the wakîl will have acted as a witness. If a man says to someone, ‘Have you given your daughter as a wife to me?’ and if the latter says, ‘Yes, I have,’ or, ‘I have given her as a wife to you,’ the nikâh will not have been effected. The former will have to say again, ‘I have accepted.’ For, his first expression was in question form. A wakîl cannot be authorized in question form. However, if his first statement is, ‘Give your daughter as a wife to me!’ the nikâh will have been effected. For, he will have authorized the latter as his wakîl through the imperative form. This wakîl’s answer will have been made in the name of both parties and therefore the nikâh will have been accomplished if two witnesses are present, too. If the wakîl says the name of the girl’s father wrong, the nikâh will not be sahîh. If a man sends several people (to act as his deputies) to marry him to a girl, if one of them makes the proposal to the girl’s father and the girl’s father, or her walî, accepts the proposal, it will be sahîh. For, the person who has made the proposal has been the wakîl and the others have been witnesses.

“If a man makes someone his wakîl by saying to him, ‘Go as my deputy and ask so and so’s daughter so and so to marry me for so much mahr (saying the amount of mahr),’ and if the wakîl makes the proposal by offering an amount of money more than the mahr (ordered by the former), it will not be necessary to pay the excess, too. The former may consent to pay the extra amount if he likes. Or he may cancel the nikâh if he likes. If he is informed after the marriage ceremony and then cancels the nikâh, he will have to give ‘Mahr-i-mithl.’ A nikâh that is performed by saying that ‘Allâhu ta’âlâ and His Messenger ‘sall-Allâhu ’alaihi wa sallâm’ are witnesses’ will not be sahîh. There are even scholars who say that it is disbelief.”

It is stated as follows in **Majmû’a-i-zuhdiyya**: If a man, in the presence of two male witnesses, writes on a piece of paper, “I have taken you as my wife,” and if the girl writes, “I have accepted (your proposal),” the nikâh will not have been effected. They have to say it (verbally). If a girl reads to the witnesses a letter that says, “I have taken you as my wife,” and which has been written by a man who is absent, and then says, “I have accepted,” the nikâh will have been effected. It would have been effected even if she had said that she had accepted the proposal after explaining to the witnesses what was written in the letter instead of reading it aloud

to them. If a man sends someone to a girl and asks her through him to be his wife and if the girl, in the presence of two witnesses who have heard the proposal, answers, “I have accepted it,” the nikâh will have been accomplished. In a nikâh, it is a condition that the îjâb [offer, proposal] and the qabûl [acceptance] be made during the same meeting; yet it is permissible to tell the witnesses about a letter of îjâb coming from someone being at some other place, in one meeting, and to say that one accepts it in another meeting. If a woman authorizes someone as her wakîl to marry her to a man and if this wakîl performs the nikâh in the presence of this woman and two female witnesses, the nikâh will be sahîh. If a person marries a woman by saying that he does not have another wife, this marriage (nikâh) will not be annulled if it is found out later that he has had another wife. So is the case with any other sort of false condition. If a woman makes someone her wakîl to marry her to a man on condition that he (the man she is to marry) will not have a jâriya during his marriage with her and if the wakîl performs the nikâh without stating the condition, or if he performs the nikâh with someone other than the man named by the woman, the woman can refuse the nikâh. A small girl can be married to a man by her father in his death-bed in the presence of witnesses. If a person has a female paternal cousin who does not have a walî closer than he, he can marry her to himself without the girl’s permission if she is small, and with her permission if she is old enough. A girl’s nikâh can be performed with her permission by her father and the wakîl of the prospective husband in the presence of two witnesses. A girl cannot be forced to marry her fiancé.

The wakîl (to be authorized) to perform the nikâh of a girl who has reached the age of discretion and puberty does not necessarily have to be her walî; yet it is mustahab for this to be the case. For the nikâh of a boy or girl who is not pubescent, it is necessary for his or her walî to act as his or her wakîl or to give permission. The walî is the (relative called) Asaba who has the authority to take the property inherited by a child (on its behalf). According to the Shaikhayn[1] ‘rahmatullâhi ta’âlâ ’alaihimâ’, the order of closeness [precedence] in being the walî is as follows: the son, the son’s son, the father, the grandfather, the brother, the paternal uncle, the paternal uncle’s son. If an adult girl’s walî performs nikâh for her without her permission, her silence or weeping upon hearing about

[1] Imâm-i-a’zam Abû Hanîfa and Imâm-i-Abû Yûsuf.

it is an indication of consent. So is the case with asking for (her) permission before the nikâh. It is sunnat to ask for the permission before the nikâh. A father or grandfather who is a sâlih Muslim can force a small child to (give consent to) the nikâh, and a nikâh performed in this manner is sahîh. A nikâh performed by male walîs except these two will be sahîh only with the mahr-i-mithl and if they marry the girl to her kufw, and then the girl can have the judge annul the nikâh when she reaches puberty. In case none of the male walîs exists, first the mother, then the father's mother, then the daughter, and then the son's daughter have precedence to act as the walî. As long as a closer walî is alive, a walî who is next in order of precedence cannot be a (small child's) walî in nikâh. If the closest walî does not perform a nikâh with mahr-i-mithl and by marrying the girl to her kufw, then the Hâkim-i shar' performs the nikâh. If a woman marries someone who is not her kufw, her male walî can have the judge annul the nikâh. That this nikâh is not sahîh anyway is written in **Fatâwâ-i-Khayriyya.** Being **kufw** means the man's being suitable for the woman in ancestral lineage, in wealth, in piety, and in honour.

It is stated as follows in **Ni'mat-i-islâm**: "Kafâat (being kufw) means the standards which a woman should expect the man (she is to marry) to have. The man has to be either superior or equal to the woman in six respects. A man with a lower professional status cannot be kufw to a woman holding a higher profession. This includes a comparison of their salaries or wages, too. A fâsiq man, even if his wrongdoings are not widely known, cannot be kufw to a girl who is sâliha[1] or even to a sâlih Muslim's daughter. The husband ought to have the financial capacity to pay the mahr-i-mu'ajjal plus the money enough to support his wife for a month. A man who fulfils this condition can be kufw to a wealthier woman. These conditions are to be demanded during the performance of the nikâh. The nikâh will not be impaired if they cease to exist after the nikâh. A peasant can be kufw to an urban girl. If a girl's nikâh is performed for an amount of mahr less than the amount of mahr-i-mithl, her walî can have the mahr complemented or have the judge cancel the nikâh."

If a person performs a man's nikâh or divorces his wife (on his behalf) though he is not his wakîl, validity of his performance depends on the man's accepting or refusing it upon hearing about it. A slave's master is not accredited to effectuate a divorce

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[1] **Sâliha** is the feminine gender for the adjective **sâlih**.

between the slave and the slave’s wife. A man can make someone else, as well as the wife herself, his wakîl to divorce his wife (on his behalf). There are three ways of doing this: The first way, termed **Temlîk**, is for the man to say to his wife with the intention of divorce, “Exercise an option concerning your nafs,” or “You have the choice,” or to say, even without intention, “Divorce yourself.” In this case, the woman can divorce herself before any of them leaves the place if he has not mentioned a certain time, or within the period of time given if he has appointed a certain time. Please see the fifteenth chapter of the sixth fascicle of **Endless Bliss**.

It is sunnat to serve sweets, fruits or sherbets to those who are present during the performance of the nikâh and to serve food rich in meat and desserts for the wedding party, to attend a wedding feast when you are invited, and to announce a wedding to acquaintances by beating drums and playing tambourines.

It is not an essential condition there to be an imâm or to recite certain prayers during a performance of nikâh. This is not a nikâh of imâm (as some ignorant people in Turkey call it). It is an Islamic nikâh. A Muslim who is to get married should first apply to marriage registration office and have the necessary legal proceedings completed, having it registered in his identity certificate that he is married. After the legal procedures are completed, the Islamic nikâh is performed before the wedding party. Thus the commandment of Allâhu ta’âlâ is carried out. He who does not perform a marriage agreeably with laws will have committed an offence. And he who does not perform an Islamic nikâh will become sinful. A person who ignores these facts will deserve the severest punishments. A Muslim should not violate laws or commit sins. To incur punishment by violating laws is a sin in itself.

Following is a procedure of nikâh which the Ottomans in Istanbul used to follow:

The person to perform the nikâh would first write the name of the wife, e.g. Fâtima bint-i-Ahmad. Then he would write the name of the wife’s wakîl, let us say, Alî bin Zayd. Then he would write the names of the two male witnesses. Next he would write the name of the husband, say, ’Umar bin Huseyn. The next stage would be to write the name of the husband’s wakîl if the husband was absent. Then, asking both parties, he would write the amount of the mahr they had agreed on in the name of mahr-i-muejjel. Then he would say the (prayer called) istighfâr and say the A’udhu

and the Basmala, which would be followed by the following prayer: "Al-hamdu li'llâh-illezî zawwaj-al arwâha bi'l eshbâh wa ahall-an-nikâha wa harrama-s-si-fâh. Wa-s-salâtu wa-s-selâmu 'alâ Rasûlinâ Muhammadin-illezî bayyana-l-harâma wa-l-mubâh wa 'alâ Âlihi wa Ashâbih-illezîna hum ahl-us-salâhi wa-l-felâh." Then, saying the A'ûdhu and the Basmala, he would recite the thirty-second âyat of Nûr sûra. Saying, "Sadaqallâhul 'azîm," he would go on, "Qâla Rasûlullah 'sall-Allâhu 'alaihi wa-sallam," **'An-nikâhu sunnati faman raghiba an sunnatî fa-laysa minnî',** sadaqa Rasûlullah. Bismillâhi wa 'alâ sunnati Rasûlillah." Then he would say, "With the blessed commandment of Allâhu ta'âlâ and upon the sunnat-i-seniyya of our Prophet and Master Hadrat Muhammadan-il-Mustafâ and following the ijtihâd of Hadrat Imâm a'zam Abû Hanîfa, who is the imâm of our Madh-hab in a'mâl (deeds, worships), and with the testimony of the Muslims present here, have you given Fâtima bint-i-Ahmad, whom you deputize, as a wife to 'Umar bin Huseyn, her suitor, in return for the mahr-i-muejjel of .... gold coins and the amount of which they have decided, in the name of mahr-i-mu'ajjal, in your capacity as proxy?" Then, turning to the husband's wakîl, he would recite the same prayer, beginning with, "Bismillâhi wa 'alâ." Then he would say, "And you; have you taken Fâtima bint-i-Ahmad (as a wife) for 'Umar bin Huseyn, whom you deputize, in return for ..... gold coins in the name of mahr-i-muejjel and the amount upon which they have agreed in the name of mahr-i-mu'ajjal, in your capacity as proxy?" He would ask each party three times, each time receiving the same answer. He would say, "So I have performed the 'aqd-i-nikâh," and recite the following prayer:

"Allâhummaj'al hâzal aqda maymûnan mubârakan waj'al bayna-humâ ulfatan wa mahabbatan wa qarâra wa lâ tej'al bayna-humâ nafratan wa fitnatan wa firârâ. Allâhumma allif baynahumâ kemâ allafta bayna Âdama wa Hawwâ. Wa kemâ allafta bayna Muhammadin 'sall-Allâhu 'alaihi wa sallam' wa Khadîja-t-al-kubrâ wa 'Âisha-ta-umm-il mu'minîna 'radiy-Allâhu 'anhumâ.' Wa bayna Alîyyin 'radiy-Allâhu 'anh' wa Fâtima-t-az-zahrâ 'radiy-Allâhu 'anhâ.' Allâhumma a'ti la-humâ awlâdan sâlihan wa omran tawîlan wa rizqan wâsi'an. Rabbanâ heblenâ min ezwâjinâ wa zurriyyâtinâ qurrata a'yunin waj'alnâ li-l-muttakîna imâmâ. Rabbanâ âtinâ fi-d-dunyâ hasanatan wa fi-l-âkhirati hasanatan wa qinâ 'adhâban-nâr. Subnâna rabbika Rabb-il-'izzati 'ammâ yasifun wa salâm un 'ala-l-mursalîn wa-l-hamdu li-l-lâhi Rabb-il 'âlamîn." Finally he would say, "Fâtiha." This prayer was recited by our

Master the Prophet, by all 'Ulamâ and Awliyâ. Saying this prayer would generate a lifelong affection between husband and wife. They would lead a life of comfort and peace. A life of abundance would continuously prevail in their home. The person who performed the nikâh would take the husband's and wife's identification certificates and go to the imâm's office, taking along the two witnesses. Filling in the **marriage card**, he and the two witnesses would sign it. The imâm, in his turn, would ratify the card and send it and the identity certificates to the Registry of Births concerned. The official at the Registry of Births would register the marriage in his book as well as on the identity cards, and then send the identity cards back to the imâm, who in his turn would give the identity cards to their owners, i.e. (the) one (belonging to the husband) to the husband himself and the other, (which belonged to the wife), to the wife's wakîl. Every marriage was thus registered in the time of the Ottomans.

A person who gets married should do so with the intention of protecting himself from fornication, from looking at harâms. He should make his niyyat (intention) to raise sâlih children, to contribute to the multiplication of Muhammad's 'alaihis-salâm' Ummat, and to adapt himself to his Sunnat in nikâh. To attempt to hoard property through harâm, and to adduce one's household as an excuse for this illegitimate way of earning, betrays the fact that one has not made one's nikâh compatibly with the Sunnat.

The nikâh called **Mut'a** or **Muwaqqat** (temporary) is harâm in all four Madh-habs. The nikâh of Mut'a means to enter into a temporary cohabitation agreement with a woman by paying her a certain amount of money without any witnesses. It is written in the books **Mîzân-ul-kubrâ** and **Ibni 'Âbidîn** that the nikâh of Mut'a is harâm and that the report stating that "Imâm-i-Mâlik said that it was permissible" should be wrong. As for the nikâh that is called Muwaqqat (temporary); it is a kind of nikâh performed in compliance with all its conditions except that divorce after a certain period of time, (be it a hundred years later), has been stipulated as a condition, (which makes the nikâh null and void.) If a person only passes through his heart (the thought that he is going to divorce his wife later) without transferring his thought into words, his nikâh will be sahîh.

If a woman who has no male relatives to accompany her in her travel for hajj marries a man going on hajj so that she can go on hajj with him and then gets divorced from him, their marriage is harâm because it is temporary. On the other hand, it is harâm for

women to go on hajj alone. It is not permissible for a woman to go on a three days' journey without one of her eternally mahram relatives or her husband to accompany her. According to a report coming from Imâm-i-a'zam Abû Hanîfa and Imâm-i-Abû Yûsuf 'rahmatullâhi ta'âlâ 'alaihimâ', it is makrûh for a free woman (a woman who is not a slave) to go on a day's journey without her mahram relative. It is written in the fifth volume of **Fatâwâ-i-Hindiyya** that when the distance is shorter than a day's walk she can go without any of her mahram relatives provided she will be among sâlih men.

It is stated in **Uqûd-ud-durriyya**: "It is sahîh to demand to be taught (how to read) the Qur'ân al-kerîm as the mahr. For, it is permissible to make mahr from something for which payment is permissible. When a person sends his wife something in addition to her subsistence and says that it is the mahr, his statement will be accepted if he swears (that he is telling the truth). If a woman whose nikâh is performed without any mention of the mahr is divorced before halwat (staying alone together) and waty (sexual intercourse), it becomes wâjib for the husband to give her a mut'a. Mut'a means a dress, a coat or a headgear, and its value should not be more than half the value of the mahr-i-mithl. If a woman whose husband is dead claims not to have been paid a part of the mahr-i-mu'ajjal, she will be given it out of the inheritance (left by her husband). If she claims that she was not given the mahr-i-mu'ajjal at all, she will not be given anything. If a girl's father prepares her dowry, gives it to her while he is in good health and then dies, the (other) inheritors cannot demand any rights (from the dowry). Money called 'Başlık',[1] which is taken by a bride's relatives from the groom in return for delivering the bride to him, is a bribe. They have to return it to the groom. If a discreet and pubescent girl is married to (someone who is) her kufw in return for mahr-i-mithl, her parents cannot raise any objections, nor can anyone else. If a person who marries a virgin says that he has found out that she was a widow, he is not to be believed or given back the mahr (that he has paid). It is permissible to perform a nikâh or wedding during the time between the two 'Iyds. It is written in **Hamza Efendi Risâlesi** and in **Fatâ-w-al-Khayriyya**: "It is bribery for a girl's relatives to charge the prospective groom anything in the name of 'Başlık' for performing the nikâh. It is harâm to take it. Nor does the groom have to pay it if he has promised (to give) it. He can

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[1] A bad custom practised by very few people in some rural areas.

take it back if he has paid it.” It is stated in **Bahr-ul-fatâwâ**: “If a woman finds out after the nikâh that her husband is leprous, she can have the judge annul her nikâh, according to Imâm-i-Muhammad. If a person who has given some dowry to his daughter claims that he gave it as an ’âriyat (for temporary use), his claim is not to be accepted unless he produces two witnesses. In case his daughter is dead, his claim will be accepted if he swears an oath; in this case he can take the dowry back from the groom.” It is stated in the fatwâ of **Fayziyya**: “The mahr-i-mu’ajjal is paid as the dowry expense before the wedding. If the nikâh is performed by an agreement of mahr on a certain number of coins that are current in the country and if, later, the coins lose their validity and the wife dies, gold or silver equivalent to the value of coins on the day when they lost their validity is to be given to her inheritors. It is not necessary to give the same number of silver coins. [Paper bills are the same as metal coins in this respect.] If the husband claims that the things he sent after the nikâh were the mahr and the wife says that they were presents, the husband’s claim will be preferred if neither party has witnesses.”

The world’s short-lived, no place for a constant stay;
Property it offers is insufficient, be it as much as it may.
Mind you, to go back to it there is no way!
Go, o world, ruination is your sole destination;
Past the millennium, we are the latest generation!

It’s your Creator, not the creature, to glorify;
Avoid the devil, it’s his habit to falsify;
In harâm annihilation of your faith is quite nigh!
Go, o world, ruination is your sole destination;
Past the millennium, we are the latest generation!

The trek is quite soon; have you made provisions?
Have you got the light to read the instructions?
Are you ready for the Two Angels’ questions?
Go, o world, ruination is your sole destination;
Past the millennium, we are the latest generation!

When you die, they’ll undo your clothes and all;
Eyes too scared to see your household withal;
For cover, a collarless overall.
Go, o world, ruination is your sole destination;
Past the millennium, we are the latest generation!

You'll go'n leave behind all your property;
You don't know who'll take over occupancy.
All's now others'; and yours: responsibility!
Go, o world, ruination is your sole destination!
Past the millennium, we are the latest generation!

Munkar and Nakir will appear like plane trees,
With their eyes ablaze with lights, as if they were lightnings;
And they ask questions with their voice that, like thunder, rings!
Go, o world, ruination is your sole destination;
Past the millennium, we are the latest generation!

Hell, with its seven furnaces,
Each with its firy entrances;
Its smell reaches ages' distances!
Go, o world, ruination is your sole destination;
Past the millennium, we are the latest generation!

THE DISBELIEVER’S MARRIAGE

The following information is the translation of a chapter entitled ‘The nikâh of a Kâfir’ from Durr-ul-mukhtâr, and from Ibni ’Âbidîn, which is a commentary to the former:

Three facts will be explained here.

1 - Every nikâh that is sahîh between (two) Muslims is sahîh between (two) disbelievers, too.

2 - Muslims’ nikâh will be harâm in the absence of any of the essential conditions, e.g. if there are no witnesses or if the woman’s period of ’iddat is not over yet. On the other hand, a nikâh performed between two disbelievers in these cases will be permissible if it is compatible with the canonical laws in their religion.

3 - It is permissible for a disbeliever to marry, from among disbelievers, a (kind of) woman who would be forbidden for a Muslim to marry. And when a disbeliever marries one such woman he has to support her and, when they become Muslims, accusing them of incontinence, which is an act called Qazf, will have to be chastised with (the punishment called) Hadd.[1] On the other hand, a couple whose nikâh would become null and void if they became Muslims cannot inherit property from each other.

When a couple of disbelievers who have married through a nikâh of the second or third type become Muslims, the judge separates them. If any one party of a married couple of magians, or the female party of a married couple of disbelievers with a Heavenly Book becomes a Muslim, the other party will be offered to become a Muslim, too. If he or she becomes a Muslim, too, their nikâh will not become void. Otherwise, the judge separates them. If the male party of a couple of magians becomes a Muslim and the female party (the wife) becomes a Jew or a Christian, their nikâh will not become void. If either party (the woman or the man) of a couple of disbelievers with a Heavenly Book becomes a Muslim and moves to the Dâr-ul-islâm, their nikâh becomes void. For, disbelievers in the Dâr-ul-harb are theoretically dead people. There cannot be a nikâh between a person who is dead and one who is alive. If both of them move to the Dâr-ul-islâm as Muslims or dhimmîs, or if they are captivated, their nikâh will not become void.

If one of a married couple of Muslims becomes a renegade, that is, if he or she abandons Islam, their nikâh becomes void. If the

[1] Please see the tenth chapter of the sixth fascicle of **Endless Bliss**.

husband becomes a renegade and then renews his îmân and nikâh, it will be jâ'iz (permissible). Since divorce has not taken place, it will be jâ'iz even if it takes place more than three times and without waiting till the end of the period of 'iddat, and it will be unnecessary to go to the court of justice. If the husband becomes a renegade, he will have to provide the woman's sustenance as long as the period of 'iddat. If the wife becomes a renegade, the husband will not have to support her as long as the 'iddat. If the wife becomes a renegade, she will be imprisoned until she becomes a Muslim or has her nikâh renewed by the judge. A woman imprisoned (for this reason) is like a woman who leaves home without (her husband's) permission; her husband does not (have to) meet her expenses such as sustenance and rentals. If a husband who has turned a renegade dies within the period of 'iddat, his wife becomes his inheritor. The scholars of (the city of) Balkh, when they observed an increase in the number of women who became renegades in order to get divorced from their husbands, said that the wife's turning a renegade would not annul the nikâh. [Please see the last three paragraphs of the thirty-second chapter of the second fascicle of **Endless Bliss**!]

According to those kinds of reports called Zâhir, a woman who becomes a renegade cannot be used as a jâriya as long as she stays in the Dâr-ul-islâm. If she flees to the Dâr-ul-harb, [i.e. to a country of disbelievers such as France and Britain,] and then is caught and brought back to the Dâr-ul-islâm, she becomes a jâriya if she becomes a Believer again. On the other hand, according to some reports called Nawâdir, she can be made a jariya (even if she stays) in the Dâr-ul-islâm. According to a report called Nawâdir, a woman who becomes a renegade becomes a fey for Muslims. Property captured from disbelievers in a war is called **Ghânîmat.** One-fifth of the ghanîmat is to be given to the Bayt-ul-mâl. The remainder is divided and meted out to the soldiers. Property seized by force from disbelievers after the war is over is called **Fey.** All of the fey is dealt out to all Muslims. For this purpose it is put into the Bayt-ul-mâl. Kharâj and jizya are fey. Since a woman who turns a renegade becomes a fey, her husband finds her and, if he has the right, asks the Khalîfa to give her to him or, if he does not have the right, buys her from the Khalîfa. Her becoming a Muslim again later will not absolve her from the state of being a jârîya. Dzengiz Khân captured the Muslim cities in Asia and martyred Muslims. He prohibited Ahkâm-i-islâmiyya (Islamic laws). The cities he captured became Dâr-ul-harb. If a woman who turns a renegade is caught in the Dâr-

ul-harb by her husband, she does not become a fey. She becomes his own jâriya. He does not have to buy her from the Khalîfa. If she does not have a child, he can sell this jâriya to others. These heavy punishments prevent women from turning renegades.

[A jâriya, even if she is an umm-i-walad,[1] and a slave can marry (each other) with the permission of their masters. During their married life they go on serving their owners. An umm-i-walad cannot be sold. When a jâriya's or slave's owner dies, she or he is inherited by the owner's heirs. An umm-i-walad becomes free (upon her owner's death). A jâriya's child by her owner becomes free. Her child by her husband is not free.]

Khalîfa 'Umar 'radiy-Allâhu 'anh' saw a songstress playing an instrument and singing. He hit her on the head with his whip, tearing her headgear open. When they said, "O Emîr-al-mu'minîn! The woman's head is left bare," he answered, "A person who slights something forbidden by Allâhu ta'âlâ has lost their Islamic honour. Islam makes honourable women valuable by covering them." It is for this reason that when the great scholar Qâdî Abû Bekr-i-Balkhî 'rahmatullâhi 'alaih' was asked why he had walked by "uncovered women" because he had passed by some place occupied by women with bare heads and arms, he said, "They are worthless, inferior women. It is doubtful whether they have îmân. They are like female disbelievers in the Dâr-ul-harb." This statement of his means that those women are like jâriyas who have become feys. A jâriya's head and arms are not her awrat parts. Hadrat 'Umar 'radiy-Allâhu 'anh' not only said that female singers had lost their Islamic honour, but also stated that those women who did not cover their heads and arms at places open to nâ-mahram men were deprived of the honour endowed by Islam. For, their behaviour shows that they despise and disignore the commandments and prohibitions of Allâhu ta'âlâ. And this, in its turn, causes one to lose one's value and respectability.

As we have stated earlier, women who have become disbelievers, renegades, cannot be used as jâriyas in the Dâr-ul-islâm, according to reports termed Zâhir. According to reports called Nawâdir, on the other hand, they can be used as jâriyas, which fact, too, we have already stated; and we have explained also that this permissibility can be exploited for the purpose of giving a renegade woman back to her husband. For, reports termed

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[1] A slave mother to her owner's child.

Nawâdir are weak, untenable. They can be acted upon only in a useful way (in cases when otherwise no one will suffer harm). Exploitability of Nawâdir reports is only to the extent that they indicate that women who do not attach importance to the Sharî'at will lose their honour as a Muslim and will be lowered to the level of jâriya in the Dâr-ul-islâm and therefore it will be permissible to look at their head and arms. This license should not be extended to the assumption that it might be permissible in the Dâr-ul-harb to seize them and use them like a jâriya or to have sexual intercourse with them. It is permissible to look at someone else's jâriya, yet it is not permissible to have sex with her without a nikâh. By the same token, it would be an extremely repulsive mistake to infer that one can have sex with a prostitute since she has lost her honour as a Muslim by committing adultery and become like a jâriya. It would be fornication, and it is disbelief to say that fornication is permissible.

If one of the husband and wife disappears, the other party can enter into another marriage as soon as he or she is informed that his or her spouse has become a renegade.

If both the husband and the wife turn renegades in the Dâr-ul-islâm, the nikâh will not become void. If both of them become Believers again, the nikâh still will not become void. When both of them become renegades, the nikâh will become void if one of them goes to the Dâr-ul-harb. It will become void when the dârs become different. Also, it would become void if one of them became a Muslim again before the other one did. (In case a child's parents are of different religions), the child's religion is the same as the better one of the religions held by the parents living with the child. So is the case with an illegitimate child. Only, the father does not (have to) support the illegitimate child, nor does this child inherit (property) from the father. A child's religion will not be (determined) after its grandfather's religion. If a Muslim's pubescent child does not have îmân, he becomes a renegade. However, if this renegade's grown-up child does not have îmân, he becomes a disbeliever, not a renegade. If he has become a disbeliever with a Heavenly Book, an (edible) animal he has killed (in a manner prescribed by Islam) can be eaten. Magians, that is, fireworshippers, and idolators, i.e. idol-worshippers, and all other polytheists are worse than disbelievers with a Heavenly Book. Of disbelievers with a Heavenly Book, Christians are closer to Muslims than are Jews. Yet Christians do not kill the (edible) animals by jugulation. They kill them by strangulation like

magians, thus making them carrions. They will suffer more vehement torment in the Hereafter. Jews do not eat animals that are not killed by jugulation (cutting the throat). The disbelief held by Christians is worse. On the other hand, Jews' enmity to Islam is more bitter. It is disbelief to say that a certain disbeliever is better than another disbeliever. One should rather say that the latter is worse than the former. If parents of a small Christian girl whom a Muslim has married (with a nikâh) turn magians later, the girl's nikâh becomes void even if they do not go to the Dâr-ul-harb. If one of the parents dies as a Christian, the girl's nikâh will not become void. For, if one of the parents dies as a dhimmî or a Muslim or a renegade, and if the one who is alive is/becomes a magian, the child's religion will be the same as the dead parent's; (that is), the child will not be a magian. If one of the Muslim parents becomes a renegade and then dies and the parent who is alive becomes a renegade and goes to the Dâr-ul-harb, the child's religion will be determined in accordance with the dead one's; it will be considered a Muslim and its nikâh will not become void. If the child dies, the namâz of janâza will be performed for it. For, a renegade in the Dâr-ul-islâm is theoretically a Muslim, since he or she must be forced to become a Muslim again. If one of the parents who are disbelievers with a Heavenly Book dies and the parent left alive becomes a Muslim, the child is a Muslim. Its religion, (in this case), will not take after the dead parent; it will take after the better one. If both Muslim parents become renegades together and yet do not take the child to the Dâr-ul-harb, the child remains a Muslim. If all three of them go (to the Dâr-ul-harb), the child will become a renegade like them. If the child becomes insane after reaching the age of puberty and if its parents become renegades and then all three of them go to the Dâr-ul-harb, the child will not be a renegade. **Dâr-ul-harb** is a place where it is forbidden to read about, teach, or practise the commandments of Allâhu ta'âlâ.

Whether male or female, a renegade is never proper for anyone to chose as a marriage partner. That it is not sahîh to marry a Râfizî is written in the fatwâs called **Bahja** and **Fayziyya** as well as in the book entitled **Ar-rawd-ur-râid fî adam-i-sihhat-i-nikâh-i-ahl-is-sunnat-i-li-r-rawâfid.**

If a disbeliever with more than four wives or who is married to two wives who are sisters or mother-and-daughter to each other becomes a Believer, the nikâh of his latest wife becomes null and void.

If a married girl who is accepted as a Muslim because her parents are Muslims does not know Islam and cannot state the essentials of Islam when she reaches puberty she becomes a renegade and becomes divorced automatically. Because she does not have a certain religion, she becomes a disbeliever without a certain Heavenly Book. If a Christian girl married to a Muslim reaches puberty, if she is still married and is unaware of any religion, she becomes a disbeliever without any Heavenly Book and her nikâh becomes void. If a girl said to be a Muslim does not know Islam when she reaches the age of puberty, she becomes a disbeliever without a Heavenly Book. When such girls reach the age of puberty they must be taught îmân and Islam and made to repeat what they learn. In other words, someone must tell a girl of this sort the Attributes of Allâhu ta'âlâ and the six tenets of îmân [called **Âmantu**], and then ask her if she believes them. If her answer is affirmative she is a Muslim. If she says, "I will find out and tell you. I can't tell you now," then she is a disbeliever. If she says, "I understand. But I won't say," then, again, she is a Muslim.

When a child with Muslim parents reaches the age of discretion and puberty, he or she will not become a Muslim only by saying, "**Lâ ilâha il-l-Allah Muhammadun Rasûlullah**." He or she will also have to know and state îmân and Islam. To know îmân means to know the six tenets of belief and to say them when one is asked. To know Islam means to accept all the commandments and prohibitions of Allâhu ta'âlâ. Here we end our translation from Ibni 'Âbidîn. [Chapter about the Murtadd (renegade) in **Majma'ul anhur**].

Every Muslim has to have his children memorize the Âmantu and teach them its meaning. A person will not be a Muslim if he does not know îmân and Islam when he reaches the age of discretion and puberty. He will not be a Muslim by only saying, "I am a Muslim." When a man or a woman decides to get married, he or she should ask the person he or she is to marry to say îmân and Islam and have him or her say them, or the person who is to perform the nikâh should have the prospective wife and husband say the Âmantu and its meaning and Islam. Then should he perform their nikâh. A person who does not know îmân and Islam cannot be married through an Islamic nikâh; that is, the nikâh performed will not be sahîh. Parents who do not teach îmân and Islam to their children will have deprived their children of the fortune of being Muslims and caused them to become disbelievers. They will share the deserts with their children, suffering torment in

Hell. The prayers of namâz, fast or hajj which they have performed will not save them from this torment. For, a person who causes others to become disbelievers will become a disbeliever himself, especially if they are his own children. Please see the final part of the thirty-second chapter of the second fascicle of **Endless Bliss**! Sayyid Abd-ul-Hakîm Arwâsî 'rahmatullâhi ta'âlâ 'alaih', a great Islamic scholar, passed away at Baghlum, Ankara, in 1362 [1943 A.D.]. He preached and guided people to Islam at the blessed masques of Istanbul such as the Fâtih Mosque, the Bâyezid Mosque, the Eyyûb Mosque, and the Agha Mosque at Beyoghlu. He said: "A child has three rights that are incumbent upon its parents to pay: To give it a Muslim name; to educate it properly, to teach it knowledge and the tenets of Islam when it reaches the age of discretion; and, after it reaches the age of puberty, to marry it to a Muslim raised with piety and Islamic manners." Parents who give their daughters in a marriage of this blessed sort, and also kinsfolk, acquaintances and neighbours who contribute to such happy events, will earn plenty of thawâb; (that is, they will be lavishly rewarded in the Hereafter.) Younger generations will vie to learn the Islamic teachings and the beautiful moral principles taught by Islam and thereby to establish the homes of felicity they will be awarded. Thus there will be an increase in the number of Muslims and the great blessing of Islam will spread far and near. Every Muslim ought to read the (Turkish) book **Herkese Lâzım Olan Îmân** (Belief that is Necessary For Everyone), a Turkish translation of Mawlânâ Khâlid-i-Baghdâdî's[1] book **I'tiqadnâma** made by Hâcı Feyzullah Efendi, one of the professors of Söke Medrese. The book gives a concise and clear explanation of a hadîth-i-sherîf teaching îmân and Islam. (Please see **Belief and Islam**, one of our publications.)

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[1] Mawlânâ Khâlid-i-Baghdâdî (1192, Zûr, north of Baghdâd – 1242 [1826 A.D.],) 'rahmatullâhi ta'âlâ 'alaih', was one of the greatest scholars and Awliyâ in the blessed succession of Islamic scholars called **Silsila-i-aliyya**.

13 – DEATH—PREPARATION FOR DEATH

The following information has been borrowed from the booklet, Safar-i-âkhirat, **by Sayyid Abdulhakîm bin Mustafa Arwâsî 'rahmatullâhi 'alaih.' The booklet has not been printed.**

Discreet men and women who have îmân and who have reached the age of puberty are termed **mukallaf**. It is sunna for those who are mukallaf to remember death very often. For, remembering death very frequently causes one to hold fast to the commandments and to avoid the prohibitions. It discourages against commiting harâms. Our Prophet 'sall-Allâhu 'alaihi wa sallam' stated: **"Remember death very often; it ruins tastes and terminates amusements!"** Some men of tasawwuf made it a habit to remember death once daily. Muhammad Bahâuddîn-i Bukhârî 'quddisa sirruh' would imagine himself dead and interred twenty times daily.

To die does not mean to cease to exist. It is an event that does not annihilate existence. Death is the termination of the soul's attachment to the body. It is an act of the soul leaving the body. Death is a matter of man's changing from one state into another. It is to migrate from one home to another. 'Umar bin 'Abd-ul'Azîz 'rahmatullâhi 'alaih' said: "You have been created only for eternity, for endlesness. Only, you will migrate from one home to another!" Death is a blessing, a gift for the Believer. It is a disaster for the sinful. It is relief for the poor, and a catastrophe for the rich. Wisdom is a gift endowed by Allâhu ta'âlâ. Ignorance is the cause of straying from the right way. Cruelty is man's ugly aspect. Worship brings good humour, joy, and a sacred light to the eyes. Weeping with fear of Allah polishes the heart. Laughter dopes the heart with venom. Man does not wish death. Yet, in fact, death is more useful than fitna. Man likes to live. Yet, in fact, death is better for him. With death the true Believer gets disentangled from the torment and exertion of this world. With the death of the cruel, countries and peoples attain relief. It will be pertinent to quote an old couplet of poetry, which was inspired by the death of a cruel enemy of the religion:

Neither he had comfort, nor did people see peace with him.
He's at last tumbled down; patience, o thou, who're there with him!

A Believer's soul leaving his body is like the emancipation of a slave from prison. Once dead, a Believer does not want to return to this world. Only martyrs want to come back to the world so that

they may be martyred once more. The world's goodness is all gone. What is left behind is only its cares. Death, therefore, is now a gift for every Muslim. A person's faith can be protected only by his grave. The first of the gifts that will be presented to Believers is the joy felt at death. The sole relief for a Believer is to attain Allâhu ta'âlâ. For every Believer death is better than life. Death is useful even to disbelievers.

You have been chasing something quite volatile. You do not even turn to look at what will remain eternally. In fact, you have been running away from it! If a person's death has no value, his life has no value, either. Death is loved because it takes one to Allâhu ta'âlâ. If I love a person, I love his staying here as well as his death. Won't a lover want to meet his beloved? When Hadrat Azrâîl 'alaihis-salâm' (Angel of Death) asked the Prophet Ibrâhîm 'alaihis-salâm' for permission to take away his soul, Hadrat Ibrâhîm said, "Will a lover take away his beloved one's soul?" But when Allâhu ta'âlâ sent a message through Hadrat Azrâîl 'alaihis-salâm,' saying, "Will a lover shirk from meeting his beloved one?", Hadrat Ibrâhîm invoked, "O my Allah! Take away my soul at once!"

For a Believer who obeys Allah's commandments, nothing is more pleasing than death. A Believer who loves attaining Allâhu ta'âlâ will wish for death. Death is a bridge that leads a lover to his beloved. The desire to meet the beloved is a great and high grade. A Believer who has attained this grade will not wish for death to be delayed. Longing for Allâhu ta'âlâ, he will wish to attain Him, to see Him. A person who loves Paradise and prepares himself for Paradise will love death. For, without death Paradise is inaccessible.

A person's îmân is determined at his last breath. Once a person has attained this greatest of fortunes, Allâhu ta'âlâ's blessings begin to come upon him. At that moment he certainly becomes happy. The fortunate person is such that Hadrat Azrâîl 'alaihis-salâm' comes to him and says, **"Don't be afraid. You are going to the Erhamurrâhimîn** (the most compassionate of the compassionate). **You are arriving in your own home. You are attaining a great fortune!"** For such a person there is no other day more honoured than this. This world is a stopover. Compared with the other world, it is a dungeon. This transient being is only a vision. Like a shade, it gradually recedes, and goes away. A hadîth-i-sherîf declares, **"Men are asleep. They will wake up when they are dead."** Life in this world is like a dream. With the awakening

of death the dream will be over, and the real life will commence. A Muslim’s death is life, eternal life!

A villager was told that he was going to die. He asked where he would go after he was dead. When they told him that he would go to Allâhu ta’âlâ, he said, “I am no more afraid of death, which will take me to my Allah, who is the only source of benevolence.”

When Mevlânâ Celâleddîn-i-Rûmî ‘quddisa sirruh’ saw Hadrat Azrâîl, he said, “Come quickly, o my dear, come quickly. Take me to my Allah, quick!”

The throes of death are more violent than all worldly pangs. But they are milder than all the torments in the next world. At the time of death, a Believer sees the angels of mercy and the houris of Paradise, which gives him so much pleasure that he does not even feel the pangs of death. His soul leaves him with utter ease, and he attains blessings.

Every Muslim has to prepare himself for death. For doing this he must do tawba (penance). He must be extra careful not to remain under the obligation of human rights. That is, he must pay the rights and dues to their owners and please their hearts. It is necessary also to pay Allah’s rights. The most important of these rights is to carry out Islam’s five commandments. A person who does not perform the salât has not paid Muslims’ rights. For, during the sitting postures of each salât it is our duty to pray for Believers by saying, “Wa ’alâ ’ibâdillâhissâlihîn.” Those who do not perform the salât deprive Believers of this prayer by not saying this prayer, which is the Believers’ right.

It is wâjib to prepare for death by paying debts and returning the things borrowed to their owners, and to write your will. Please see the final part of the twenty-second chapter, and also the thirty-second chapter.

Because death may come all at once, it is wâjib to provide for the execution of those punishments of **Hadd** and **Ta’dhîr** for which there is no forgiveness or which have not been forgiven yet though their forgiveness is possible. That is, it is necessary to ensure the worldly punishments for those sins that have been known. An unpardonable sin is to swear at Server-i-âlam ‘sall-Allâhu ’alaihi wa sallam’. The pardonable hadds, that is, punishments, are the punishments of such sins as fornication, theft, slander, and taking alcoholic drinks in the world.

Those who are ill must especially hurry to carry out these acts that are wâjib.

An ill person’s bed, sheets, underwears must be clean. They must be changed frequently. For, cleanliness affects the heart and soul greatly. And the effect of cleanliness on the heart and soul at the time of death is more important than at other times. Medical treatment is permissible. But Allâhu ta’âlâ, alone, creates healing and effectiveness in medicine. If Allâhu ta’âlâ wills, He does not create any effectiveness in medicine. If this were not a fact, every ill person would recover upon treatment.

It is not permissible to torment seriously ill people with placebo vaccines. Seriously ill people must not be taken to a hospital. Great effort must be made so that the ill person will die in his home, in the presence of his household and pious people; Qur’ân al-kerîm must be read (or recited) near him, and he must be coached to say the Kalima-i-shahâda (by a sâlih Muslim whom he likes and who knows how to do so without annoying him).

During an illness knowledge of îmân and faith must be the major topics of all conversations. Visitors must talk on this subject and, if no one comes, the ill person must read information about the Hereafter. If he cannot read books, he must think about the Hereafter. He must be told stories indicating the fact that Allâhu ta’âlâ is very compassionate. He must be reminded that sins are nothing compared with Allah’s Compassion. His hope of pardon and forgiveness must be very strong.

An ill person must take more care than at any other time not to omit his daily prayers. He must fill his heart with love of Allâhu ta’âlâ and say the Kalima-i-tawhîd very often. He must give great care to do the commandments of Islam. He must make a verbal or written will.

An ill person must have great love for Imâm Ali ‘radiy-Allâhu ’anh’ and his offspring. For, it has been unanimously stated by the savants of Ahl-as-sunna that love for the Ahl-i-Bayt produces îmân at the last breath.

A person on his deathbed must say the Sûra Ikhlâs [Qulhuwallâhu ahad] very frequently. Next to his deathbed must be a framed inscription of the **Kalima-i-tawhîd**.

Changing the place of an ill person’s bed or his room gives relief to him. If possible, he must have an ablution. Because such women as servants, cooks and nurses are not his mahram, they are a great religious hindrance to him. An ill or old person’s daughter cannot take the place of his wife. She cannot do his mahram services. To be free from danger, an ill or old person must marry the woman who is serving him. Taking no heed of gossip, he must

have a wife with nikâh[1] -young as she may be- who will serve him.

Visitors to an ill person must not stay very long. Even if they are people loved by the ill person, they must leave early. If an ill person asks, they must stay a little longer and, asking for permission after a while, they must leave if he does not ask them to stay. It is not right not to let anyone enter a seriously ill person's room. Sâlih people must enter the room and stay there long enough to say the Sûra Ikhlâs once, even if the ill person does not want them to. You should not deprive the ill person with the excuse that the doctor said that no one must see him or talk to him. Sâlih people must enter his room and recite the Sûra Yâsîn-i-sherîf. It would be useful even if it were recited secretly.

People with an ill person must not say interesting things that may worsen his illness; they must not tell stories or start conversations on such topics as newspapers, property, trade, politics and governments.

The person on his deathbed must eat what is halâl. As far as possible, he must eat things prepared after saying the Basmala and other prayers by vigilant-hearted people who have ablution.

People with an ill person must tell religious tales and quote the words of the Awliyâ, of savants, and of Sâlih Muslims 'rahmatullâhi ta'âlâ 'alaihim ajma'în'. They must elevate his love for these people. Talking about the Awliyâ-i-kirâm 'rahmatullâhi ta'âlâ 'alaihim ajma'în' causes Allah's compassion.

When the symptoms of death are seen, children, people who are junub, and menstruating women must not be allowed into his room. Great care must be taken not to leave any pictures in the room, nor even in the house. A few learned and Sâlih Muslims must be with him and try to get him to say the Kalima-i-tawhîd without forcing him. He must not be oppressed to say it; those who are with him must say it loud enough to let him hear, but he must not be annoyed. If he says it once he need not be coached to say it again. If he says other things (after having said the Kalima-i-tawhîd), he must be reminded to say the Kalima-i-tawhîd once more. That is, his last word ought to be the Kalima-i-tawhîd. It is sunna for those who are with him to say, "lâ ilâha illallah," once without forcing him. It is preferrable for those who will remind him to say the Kalima-i-tawhîd not to be his adversaries or

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[1] Contract of marriage as prescribed by Islam, as explained in the previous chapter.

inheritors. If no others are available his inheritors can do it.

It is an important sunna to recite (or read) the Sûra **Yâsîn** in the presence of the ill person. A hadîth-i-sherîf reads: **"If you say the Sûra Yâsîn-i-sherîf in the presence of an ill person, he will die satiated with water and enter his grave satiated with water."** That is, he will not feel the thirst caused by the throes of death. Since the Sûra Yâsîn-i-sherîf tells about the things that will happen after the Resurrection, explains that this world is transitory and foretells the blessings in Paradise and the torment in Hell, when it is said in the presence of an ill person he will have heard the things that will cause him to die with îmân. Reciting (or reading) the Sûra **Ra'd** facilitates the soul's leaving the body. According to the Hanafî Madhhab, when a person dies he, (i.e. his body,) becomes najs. The Qur'ân al-kerîm can be read at some distance and silently, but not quite near him. However, he does not become najs according to the other three Madhhâhib.

Even the dead will hear and get benefits from the Qur'ân read. It is a sunna for those who carry a janâza (dead person's body) to the grave or who visit a grave to say some part of the Qur'ân al-kerîm and present the thawâb to the dead person's soul without thinking of any worldly recompense.

It is a sunna to make the dying person drink some water. This becomes wâjib if it is seen that he needs water. And this necessity becomes even stronger if it is seen that he feels sated upon drinking the water. It is stated in a hadîth-i-sherîf that at that moment of death Satan shows (the dying person) some pure water and says, "I shall let you drink this if you say that you worship none but me." There are ten benefits in reciting (or reading) the Sûra Yâsîn-i-sherîf:

1 - The hungry person will become satiated. That is, his food will come to him unexpectedly.

2 - The thirsty person will find water enough to satisfy him fully.

3 - The person without clothes will find clothes.

4 - The ill person whose time of death has not come will recover.

5 - The ill person whose hour of death has come will not feel the throes of death.

6 - As he dies, the angels of Paradise will come to him and show themselves to him.

7 - The fearful person will become secure against what he fears.

8 - A musâfir lonely in a place will find someone to help him.

9 - It will become easy for a bachelor to get married.

10 - Lost or missing property will be found.

However, it must be read with belief and one must intend for these things.

Our Prophet 'sall-Allâhu 'alaihi wa sallam' stated: **"When a sûra is recited** (or read) **in the presence of a dying person, an angel for each letter** (of the sûra) **will come and pray so that his soul will leave him with ease. As he is washed, they will keep him company. As his janâza is being carried, they will go with him. They will attend at his janâza namâz**[1]**. They will be with him during his interment. They will pray for him all the time."** Another hadîth-i-sherîf reads: **"If the Yâsîn-i-sherîf is read** (or recited) **in the presence of a Muslim who is ill, the angel named Ridwân will bring him sherbet from Paradise. He will give away his soul sated with water. He will go to his grave sated. He will not need water."**

An ill person must have faith in Allâhu ta'âlâ's pardon and forgiveness. He must say, "My Rabb (Allâhu ta'âlâ) will forgive me." Allâhu ta'âlâ says in a hadîth-i-qudsî: **"I shall meet My slave as he expects Me to** (meet him)**. Then, always expect goodness from Me!"** The Sarwar-i-'âlam 'sall-Allâhu 'alaihi wa sallam' said three days before his death: **"Die in a state of expectation of goodness from Allâhu ta'âlâ!"** It is a sunna for those who are with an ill person to say things that will elevate his hope for goodness and to remind him that we expect our Rabb's forgiveness. When it is seen that he is in the state of death, it becomes wâjib to say things that will increase his hope for Allah's Compassion. If he has some omitted prayers of namâz, it is sunna to encourage him to make tawba for them.

His debts must be paid as soon as he dies. Unless his debts are paid his soul will not attain the grade of the good. Also, the **Mahr,** the money paid for a nikâh by the husband to the wife, which he did not pay to his wife at the time of marriage, is his debt. His other debts would be zakât and fitra that he did not give, if there are any, and things obtained by theft and usurpation, if there are any. If it is impossible to pay his debts before he is interred, one of the walîs [next of kin] of the dead person undertakes his debts by method of **Hawâla**.[2] The debts belong to him now. Thus, by the consent of the owners of the rights, the dead person will have been freed from

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[1] **Salât of Janâza** is explained in full detail in the fifteenth chapter.

[2] 'Hawâla' means 'transfer'. Please six the thirty-eighth chapter.

his debts. From now on the debts will be the walî's obligation. Though this way does not completely suit the method of hawâla, it has been permitted by the Sharî'a on account of the needy state the dead person is in. Sarwar-i-'âlam 'sall-Allâhu 'alaihi wa sallam' did not want to perform the janâza prayer for a person who had died indebted. One of the Sahâba, who was named Abû Qatâda-i-Ansârî 'radiy-Allâhu 'anh', accepted to undertake the dead person's debt by this method. Upon this, he (the Prophet) 'sall-Allâhu 'alaihi wa sallam' accepted to perform the janâza prayer. The dead person's debt was two dinârs, that is, two mithqâls [two 4.8 gram coins of gold]. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' said to Abû Qatâda, **"Has this debt of two gold coins been transferred unto you, and has the dead person been freed from the debt?"** When Abû Qatâda said, "Yes," Rasûlullah 'sall-Allâhu 'alaihi wa sallam' performed the janâza prayer. As is seen, the dead person will be freed from his debt even when a non-relative undertakes the debt. The person who undertakes the debt should say to the creditor, "Make the dead person halâl (forgive him)!" By this act of mutual forgiveness the dead person will be completely free from his debt.

After the dead person is freed from others' rights either by this way or by other ways prescribed by Islam, it is necessary to execute his last will. The will that requests the doing of something sinful is invalid. Such wills must not be executed. Thus, the dead person will not be deprived of the thawâb and the prayers caused by his will.

It is not permissible to wish for death in order to get rid of an illness or worldly trouble. It is sunna to entreat Allâhu ta'âlâ for death for fear of religious trouble and fitna. So is the case with wishing to be martyred in the way of Allah. Also, it is permissible to wish for death when you are in Mekka-i-mukarrama or Medina-i-munawwara or near the grave of a Walî 'qaddas-Allâhu ta'âlâ asrârahum ul-'azîz'.

It is mustahab to wish for death in order to attain Allâhu ta'âlâ. A hadîth reads: **"If a person loves to see Allâhu ta'âlâ, Allâhu ta'âlâ loves to see him, too."**

Medical treatment, that is, to go to a doctor and to use medicine, is sunna. A hadîth-i-sherîf reads: **"Get medical treatment for your illness! For, Allâhu ta'âlâ has created remedies and medicine for every illness except that of death."**

It is written in the second volume of **Mawâhib-i-ladunniyya** that our Prophet 'sall-Allâhu 'alaihi wa sallam' would use three

kinds of medicine. He would say âyats from the Qur'ân al-kerîm as well as other prayers. He would use medicines discovered by scientific research. He would apply a mixture of these two. He would say: **"A person who does not expect shifâ from the Qur'ân al-kerîm cannot get shifâ."** The hadîth-i-sherîfs stating that reciting the sûra of **Fâtiha** is a shifâ (healer) of illnesses are written in the tafsîrs of **Beydâwî** and **Cherkhî** and in **Tafsîr-i-Mazharî,** which is written by Hadrat Thanâullah-i Dahlawî. Imâm Qushayrî says that if the six âyats of shifâ[1] in the Qur'ân al-kerîm are written on a dish and then melted by means of some water put in the dish, an ill person who drinks the water will be healed by Allâhu ta'âlâ. Âyats and prayers are absolute healers. But there are conditions to be observed. It is essential that the person who says or writes the âyat or the prayer and the ill person must believe in its effectiveness. The ill person must observe a diet against harmful foods and doubtful medicines, abstain from extreme cold, do what is prescribed to be necessary, and avoid harâm and cruel acts. A hadîth-i-sherîf reads: **"Prayers made in a state of oblivion and unawareness of Allâhu ta'âlâ are not acceptable."** Whenever ill, our master Rasûlullah 'sall-Allâhu 'alaihi wa sallam' would say the (two) sûras of **(Qul a'ûdhu)** and breathe them on himself.

The **âyats for shifâ** (healing) are the following: The final part of the fourteenth âyat of Sûra-i-Tawba, the middle part of the fifty-seventh âyat of Sûra-i-Yûnus, the middle part of the sixty-ninth âyat of Sûra-i-Nakhl, the initial part of the eighty-second âyat of Sûra-i-Isrâ, the eightieth âyat of Sûra-i-Shu'arâ, and the middle part of the forty-fourth âyat of Sûra-i-Fussilat. By means of some coloured liquid, e.g. saffrony water, these are written in a bowl, and the writing is melted with rain water. The wife is asked to present some of the money which she was given as mahr, and some honey is bought with the money. Then the honey is mixed with the water and the mixture is drunk. As well, the âyats for shifâ can be written on a piece of paper by a person with an ablution and the piece of paper can be put in some water in a container.

While explaining the thirteenth heretical creed held by the Shiites, the book **Tuhfa** states in its final pages: When Hadrat Imâm Ali Ridhâ arrived in Nishâpûr, more than twenty thousand savants and disciples of the Ahl-as-sunna met him. They begged him to quote a hadîth-i-sherîf communicated by his ancestry.

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[1] Good health; recovering from illness; restoration of good health.

Mentioning the names of all his ancestry, Hadrat Imâm recited the following hadîth-i-qudsî: **“Lâ ilâha illallah is My fortress. The person who has said this has entered My fortress. And he who has entered my fortress has escaped My torment.”** Hadrat Imâm Ahmad ibn Hanbal said that if this hadîth-i-qudsî is said together with the names of its conveyors and breathed on an insane person he will regain his mental health. If it is said and breathed upon an ill person he recovers. This fact is also stated by Ibni Esir ‘rahmat-ullâhi ta’âlâ ’alaihim’ in his book **Kâmil.** I have explained how to say this hadith-i-qudsî to an ill person in the part entitled **“Birleşelim-Sevişelim** (Let Us Unite and Love One Another) in my Turkish book **Hak Sözün Vesikaları** (Documents of the Right Word)[1]

First you say **“Estaghfirullah”** twenty-five times, saying the last one up to **“...wa atûbu ilayh.”** Then you say the **Sûra-i-Ikhlâs** eleven times, the **Sûra-i-Fâtiha** seven times and the following prayer thirty-three times: **“Allahumma salli wa sallim ’alâ sayyidinâ Muhammadin wa ’alâ âli sayyidinâ Muhammad.”** Then you send the thawâb for these prayers to the souls of our Prophet ‘sall-Allâhu ’alaihi wa sallam’, of the Ashâb-i-kirâm ‘ridwânullâhi ’alaihim ajma’în’, and of the Awliyâ ‘rahmatullâhi ’alaihim ajma’în’, and also to the souls of the Silsila-i-aliyya-i-Naqshibandiyya by mentioning their names. Then you invoke Allâhu ta’âlâ and beg Him to heal you for the sake of these great people. You repeat these prayers every morning and every evening, take the necessary medicines, and observe the diet prescribed for your illness. The great savant Hadrat ’Abdullah Dahlawî says in the twenty-eighth letter of his book **Mekâtib**: “You ask for prayers. So I send you the names of our superlors. Reciting the Fâtiha once for the souls of the first list and once for the souls of the second list, you invoke Allâhu ta’âlâ through them!” He says in his hundred and seventeenth letter: “Whenever you have a problem invoke Allâhu ta’âlâ through our superiors. Trust yourself to Him! Allâhu ta’âlâ will accept the prayers sent through people whom He loves and give you your religious and worldly needs.” He either blesses you with healing directly or sends you the doctor or the medicine that He has made a means for your healing and then cures you through means. For, it is His divine way to create through means. For this reason, it is sunna to

[1] English version of the book is available from Hakîkat Kitâbevi, Fâtih, Istanbul, Turkey.

hold fast to means. Names of the great savants called **Silsila-i-aliyye-i-Naqshibandiyya** are written in the Turkish book **Seâdet-i-ebediyye**, at the end of the fifty-third chapter of the third part. That it is very useful to read (or recite) the **Qasîda-i-Burda**[1] is written in detail in the hundred and twenty-sixth page of the Turkish book **Kıyâmet ve Âhıret** (the Rising and the Hereafter).[2]

The author of the book **Tafsîr-i-'Azîzî** 'rahmatullâhi ta'âlâ 'alaih' says: Say Sûra-i-Fâtiha forty-one times between the sunna and the fard of morning prayer, and repeat this precedure for forty days. Pronounce the last letter (Mim) of the Basmala together with the second letter (Lam) of Sûra-i-Fâtiha. [That is, say, "...Rahîm-ilhamdu..."] Any prayer you will send after this will be accepted. If you breathe it on some water and have a spell-bound person drink the water the person [if it is not his predestinated time of death] will recover and the spell will be broken.

It is written in the interpretation of the third âyat of **Sûra-i-Talâq** in the book **Tafsîr-i-Mazharî**: "In order to be safe against religious and worldly harm and to attain goodnesses, Hadrat Imâm Rabbânî Mujaddid-i-alf-i-thânî 'rahmatullâhi ta'âlâ 'alaih' would say, **'Lâ hawla walâ quwwata illâ billah,'** five hundred times every day. This is called **kalima-i tamjîd.** [Please see the twenty-fourth chapter of the third fascicle of **Endless Bliss**.] And he would also say the **Salawât** a hundred times both before beginning and after finishing the Lâ hawla. A hadîth-i-sherîf reads as follows: **'A person who wants Allâhu ta'âlâ to give him a blessing which is permanent must say, 'Lâ hawla walâ quwwata illâ billah,' very much!'** A hadîth-i-sherîf, which exists in the **Sahîhayn,** declares: **'This is a treasure of the treasures of Paradise.'** Another hadîth-i-sherîf declares: **'Saying the Lâ hawla walâ quwwata is medicine for ninety-nine illnesses, the lightest of which is hemm.'** Hemm means sorrow, melancholy, boredom."

The author of **Fawâid-i-Uthmâniyya** 'rahmatullâhi ta'âlâ 'alaih'

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[1] It was written by Imâm Muhammad bin Sa'îd Sheref-ud-dîn Busayrî 'rahmatullâhi ta'âlâ 'alaih', (609 [1213 A.D.]. Busayr, Egypt – 695 [1295], Egypt.) A commentary to the pamphlet was rendered by Muhammed bin Shaîkh Mustafâ Muslîh-ud-dîn Efendi 'rahmatullâhi ta'âlâ 'alaih', (d. 951 [1544 A.D.].)

[2] Turkish version of the book **Durrat-ul-fâkhira**, which was written in Arabic by Muhammad bin Muhammad Ghazâlî 'rahmatullâhi ta'âlâ 'alaih', (450 [1058 A.D.], Ghazâl, Mashhad (Tus), Iran – 505 [1111], the same place.) Please check the list appended to the current book.

says: “If the **Fâtiha, the Âyat-al-kursî**, and **the four sûras beginning with “Qul...”** are said seven times each and then breathed on an ill person, it will be effective against a spell, the evil eye, and biting or stinging of (poisonous) animals. Also, saying and breathing them on some salt and melting it in water and then drinking the water or pouring it on a wound has been tried.” The four sûras beginning with “Qul...” are the sûras of Kâfirûn, Ikhlâs, and Mu’awwizateyn. The following information has been extracted from the two hundred and eleventh page of a book that occupies number 3653 of the Lâleli department of the Library of Süleymâniyye in Istanbul: “If, at the time of Seher (early morning) on a Friday, the following âyat, (of the Qur’ân al-kerîm) is written on the palm of the right hand (of a person suffering from a spell) and then licked and swallowed (by the sufferer), the spell will be broken even if it has been afflicting that person for forty years. He (or she) will recover: the ninety-ninth âyat of Nisâ sûra, from “**... wa man yakhruj...**” to “**... rahîmâ...**”

It is said at the end of the book **Bostan-ul-Ârifin** that Rasûlullah ’sall-Allâhu ’alaihi wa sallam’ visited ’Uthmân bin Abil’as ’radiy-Allâhu ’anh.’ He was very ill and was in great pain. Rasûlullah said to him, **“Rub the painful area with your right hand seven times, and every time you do so, say this: ’A’ûzu bi’izzetillâhi ve qudretihi min sharri mâ-ejidu wa uhâziru.”** ’Uthmân reported later that he had done as he had been told, and soon thereafter experienced a full recovery. ’Abdullah ibni Mas’ûd said that if a person reads every morning and every evening the first four âyats of Sûra Baqara, the Âyat-al Kursî, and then the next two âyats, and the last three âyats of Sûra Baqara, Satan will not enter his house. If you read this to an insane person he will recover. Anyone who is in trouble should read “estaghfirullah” (which means repentance) very often.

The book **Hazînat-ul-asrâr** says: ’Umar-ul-Fârûq ‘radiy-Allâhu ’anh’ said that Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ declared: **“Fâtiha-i sherîfa, Âyatalkursî, Ikhlâs-i sherîf** and **those sûras beginning with Qul a’ûdhu are read on rain-water seventy times each. Those who drink this water successively seven mornings will have a full recovery from illness and pain.”** [For preparing that water, some Sâlih Muslims must meet somewhere and read the above-mentioned surâs by breathing them on the water.] Imâm-i Ahmad, and Tirmuzî, and Nesâî, and Hâkim, and Bayhakî report that Sa’d Ibni Mâlik ‘radiy-Allâhu ta’âlâ ’anh’ said that Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ stated: **“Yûnus (Jonah) ’alaihi’s-**

salâm prayed in the dolphin by reciting the 87th ayât of Sûra Anbiyâ [His prayer was accepted and it was revealed that all the wishes of Muslims who will pray reading it will be granted until Doomsday.] **It is certain that when a Muslim prays by reading that âyat-i-kerîma his wishes will be accepted by Allâhu ta'âlâ."** It is said in a report that this ayât should be recited forty times.

Please see the back cover of the current book!

14 – THE RELIGIOUS SERVICE TO BE DONE TO THE DECEASED—THE SHROUD

The following information has been translated from Durr-ul-mukhtâr, and from its commentary entitled Ibni ’Âbidîn.

Janâza means a dead person, or mayyit. Today, we call a coffin containing the corpse of a dead person ‘janâza’. Jinâza means the bench for washing corpses. Mawt means death.

The symptoms of death approaching are the feet slackening and lengthening, the nose becoming twisted, and the temples becoming concave. An ill person in this state is made to lie on his right side, and his face is turned toward the qibla. It is sunna to make him lie in this manner. It is also permissible to make him lie on his back with his feet toward the qibla. This has become common recently. But something must be put under his head. Thus his face will be toward the qibla. If it is difficult to do so, it is also permissible to make him lie in any manner that comes easy.

When coaching the Kalima-i-tawhîd, it would be good to add: “**Muhammadun Rasûlullah**.” In fact, to be converted to îmân, a disbeliever has to begin with “**Esh hadu**” and also has to say, “**Muhammadan ’abduhu wa Rasûluh**.”

Once death has begun, all hopes of life having been given up, a disbeliever’s conversion to Islam is not acceptable, though tawba (penance) is still acceptable.

A person who utters something that will cause disbelief while being in the state of death is to be taken as a Believer. For, he is not conscious at that moment.

Signs of death are stiffening (rigor mortis), becoming cold, and putrefaction. When death is diagnosed, which is possible before these signs as well, [such as by the breath stopping, which can be determined by using a mirror, which should not be misted over when held before the dead person’s mouth, by the stopping of the heart or the pulse,] it is sunna to close his eyes and to tie up his chin. His chin must be tied up by means of a wide piece of cloth fastened on top of his head. When closing his eyes it is sunna to say, “**Bismillah wa ’alâ Millati Rasûlillah**,” and to say another certain prayer. Before the corpse becomes cold it is sunna to open and close his fingers, elbows and knees, and to leave his arms and legs straight. Thus washing and shrouding will be easy.

Before the corpse becomes cold, its clothes are taken off and it

is covered with a wide, light bed sheet. One end of the sheet will be put under its head and the other end under its feet. Something [a knife or anything made of iron] is placed on top of its stomach, on or under the sheet, thus to prevent the corpse from swelling. It should be over a hundred grams. Books containing sacrosanct knowledge must not be used for this purpose. Greatest care must be taken to protect the corpse from things that would accelerate putrefaction and rotting. As the soul leaves the body, incense **(bahûr)** must be burned near the dying person. The neighbors, relatives and friends must immediately be informed of the death.

Though there are (some savants) who say that it is makrûh to read the Qur'ân-al-kerîm near a dead person before it is washed, it is permissible to read it silently, without touching its bed, and while it is covered.

Once death has been diagnosed, it is sunna to hurry, which becomes even wâjib in any likelihood of putrefaction. If there is some doubt in the diagnosis of death, you wait till it becomes certain. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' would not approve of a corpse being left with its household. It is wâjib to detain those who die of a heart attack until their death becomes certain when the corpse becomes cold and putrefaction begins.

First incense is burned and carried around the washing bench three times. It may be carried five times as well. Incense is a plant. It is mixed with the filings of aloe wood and the resin of storax and the mixture is burned in a container while the washing bench is suffused with the smokes.

The corpse, being covered, is laid on its back or in any easy manner on the incensed washing bench. It is washed, between the navel and the knees being covered. For, a woman's awrat part that must be covered from other women is like a man's awrat part that must be covered from other men. It is sunna to lay it toward the qibla on the washing bench. If its shirt is long enough, it is washed in its shirt.

It is fard-i-kifâya to wash it, to shroud it, to perform the janâza prayer, and to inter it. That is, after these are done by a sufficient number of people, it will no longer be fard for other people to do them. [It is necessary to do these fards for the sake of Allah and free of charge. The thawâb which is to be given for doing something fard is given to people who do these services, and it is far greater than the thawâb for any other good or philanthropic activity. If no one performs this service, all people who have heard about it but have not come to serve will be sinful. They will

become fâsiq Muslims. Anyone who doesn't accept these services as a duty and underestimates their value, loses his belief and becomes a **murtadd.**] It is permissible for a child also to wash a corpse. A disbeliever's corpse is not washed. It is wrapped in a piece of cloth and buried.

When there are no women, a man cannot wash the corpse of a woman. But, after the corpse is covered from head to foot, a relative of hers or, if she has no relatives, someone else wraps a piece of cloth around his hand, puts his hand under the cover, and makes tayammum on the corpse. For, a dead person's awrat part is the same as a living person's. Those parts of the body that are forbidden for others to look at are also forbidden for them to touch. A better way would be to teach a child and have it wash the corpse.

The bench for washing the corpse must be as high as (an average person's) navel and must be somewhat sloping. The water must not be very hot and must be salty. Cool and salty water retards rotting. Even if the corpse is a child's, it is first given an ablution. But, instead of putting water into its mouth and nose, they are cleaned with a piece of cloth. If water escapes into its mouth it will accelerate the rotting process. First its face is washed. Then its arms are washed, its ears and the back of its neck are given masah, and its feet are washed. Its head and beard are washed with marsh-mallow or soap and with water which is boiled with cedar leaves or soapwort and then cooled or mixed with a whitish, aromatic substance called **camphor** or, if these are unavailable, only with pure water. Then it is turned and made to lie on its left and water is poured on its right hand side. The water must be made to reach even those parts touching the washing bench. Then it is made to lie on its right and water is poured on its left from head to foot. Then it is made to sit up and the abdomen is slightly pressed down. Anything coming out is washed away. [That is, it is removed by pouring water.] Then it is made to lie on its left and its right hand side is washed again, [that is, water is poured from head to foot.] Thus, as prescribed by the sunna, it will have been washed three times. As each side is washed, water is poured three times.

If an ill person dies in a state of junub, he is still washed once. If anything breaking ablution comes out after the washing he is not washed or given an ablution again. But the things coming out are washed away by pouring water. It is sunna to make niyya (intention) when washing the corpse. Without a niyya the dead person still

becomes clean, but the fard does not cease to be an obligation.

If it is understood that the corpse has been washed by angels and genies, it is washed again. No one except the washer and his helper is allowed into the washing area. Those who wash the dead person must be trustworthy. They must convey the symptoms of blessedness and conceal the symptoms of wickedness seen on the corpse. They must not divulge the shame of the dead person. The dead person's guardian can enter the area.

Our master Rasûlullah 'sall-Allâhu 'alaihi wa sallam' was washed by Fadl the son of Abbâs, and Hadrat Alî 'radiy-Allâhu 'anhum'. Meanwhile Usâma 'radiy-Allâhu 'anh' was pouring water on him, and Abbâs 'radiy-Allâhu 'anh' was going in and out of the room.

Anything that would give pain to a living person gives pain to a dead person, too. For this reason, the corpse is not washed with very cold or very hot water. [Nor is it kept in an ice-house for protection against putrefaction. Putrefaction must be prevented by immediate interment, and the corpse must not be kept waiting for the arrival of relatives living far away.] It is not permissible to wash the corpse with Zemzem[1] water. Any hair falling out is placed in the shroud. For, every part of the human body is sacrosanct and must be buried. Also, it is sunna to bury the nails, the hairs and the teeth that have fallen out or have been cut out or extracted from a living person.

After being washed, the corpse is wiped dry with a piece of cloth on the washing bench. An aromatic mixture of things called hanût or camphor is sprinkled over its hair and beard. It is makrûh to apply saffron. Cotton sprinkled with camphor is put on its organs of sajda (prostration), [such as forehead, nose, knees, fingers and toes.]

In the Hanafî Madhhab it is not permissible to comb the corpse's hair or to trim its hair, beard, moustache, and/or nails. It is permissible to put cotton in its mouth, nostrils, ear-holes or on its eyes.

In the Hanafî Madhhab a woman cannot be washed or touched by her husband. For, the nikâh becomes void as soon as the wife dies. It is permissible for him to look at her. In the other three Madhhabs it is permissible for the husband to wash the wife. It is permissible in the Hanafî Madhhab also for the wife to wash her husband. For, after the death (of the husband) the nikâh (marriage) stays valid until the period of 'iddat [four months] is

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[1] Or zamzam. As is written in the seventh chapter of the fourth fascicle, it can be used for making an ablution or a ghusl.

over. Men cannot wash women, and women cannot wash men. They must make a **tayammum** by wrapping a cloth around their hands. A man who makes a tayammum cannot look at the bare arms of a nâmahram woman. If she is a mahram relative of his, there is no need to wrap a cloth. For it is permissible to look at and touch the arms and the face of mahram relatives.

If only a person's head or half of its body (without the head) is found, it is not washed and the salât of janâza is not performed. It is buried as it is. If more than half of the body without the head or if half of the body with the head is found, it is washed and the janâza salât is performed.

It brings much thawâb to wash the corpse free of charge. It is permissible to demand payment, but it is not permissible to do so if there is no one else to wash it free of charge. So is the case with the payments for transporting corpses and digging graves. A person drowned is washed three times, or moved three times in the water with the intention to wash. A person soaked through with rain is washed, too.

Washing corpses existed in all the (past) religious dispensations. Angels washed Adam ''alaihissalâm', and they said, "Wash your dead like this."

When an ownerless corpse is found that is not known to belong to a Muslim or a disbeliever, it is washed and the salât of janâza is performed if it has the signs of Islam. Signs of Islam are circumcision, dying the beard, and shaving the pubes. Today all three of these are no longer signs of Islam. If it does not have any sign of Islam, it is to be considered to belong to a Muslim if it is found in a Muslim country.

If corpses of Muslims are mixed with those of disbelievers and if they do not have signs (to show their faith), the salât of janâza is performed for all of them if most of them are known to be Muslims. And all of them are buried in a cemetery for Muslims. If the numbers (of the Muslims and disbelievers) are equal or if the Muslims are in a minority, all of them are washed and shrouded, the salât of janâza is performed by making the niyya (intention) for the Muslim ones only, and they are all buried in a cemetery for disbelievers.

When there is no water the tayammum is made on the corpse and then the janâza salât is performed. If water is found afterwards, it must be washed, but the salât is not performed again. Likewise, when a living person finds water he does not repeat the salât (which he performed with a tayammum because he did not

find any water). It is mustahab for a person who is to wash a corpse to make a ghusl himself first. It is makrûh for a junub person or a menstruating woman to wash a corpse. Water with which a corpse is washed becomes mâ-i musta'mal.[1] It becomes najs, foul. Therefore those who wash it must not let water splash on them or must wrap themselves in large bath towels. When washed, the corpse becomes clean.

It is stated in **Bahr-ur-râiq** that a deceased person's shroud is prepared identically with the clothes which he used to wear when he was alive. Therefore, poor women are wrapped in izâr, lifâfa, and khimar, which make up what is termed **kafan-i kifâya** (shroud of minimum cost). It is written in the book **Tabyin-ul haqâiq**: "A woman's shroud of minimum cost is izâr, lifâfa, and khimar, since she would have to wear at least these pieces of clothing when she was alive. It would be permissible without any karâhat[2] to perform salât with these clothings." It is stated in the book **Halabî-i-kebîr**: "Women used to cover themselves with a (kind of dress called) **der'.** The front part of this dress was open up to the breast, and long enough to cover the legs down to the feet." [As described, during the period of the Salaf-i-sâlihîn Muslim women used to wear a loose robe, a wide and long coat, and a head-cover. They did not wear two pieces of cloth which we call the charshaf.] It is sunna for a man's shroud to consist of three parts:

1 - **Izâr:** It extends from head to feet and is more than a metre wide.

2- **Qamîs** [a shirt, long like a chemise]: It is twice the length of the shoulders to feet. It is folded together once in the middle and the place of the fold is cut straight long enough to let the head through. The arm holes and the cuffs are not cut.

3 - **Lifâfa:** It extends beyond the head and the feet and is wider. Its ends over the head and below the feet are puckered up and fastened with a piece of cloth.

It is stated in the book **Berekât** that it is written also in Sayyid Sherîf Jurjânî's book **Sherh-i-Sirâjî** that it is makrûh to wrap an imâma (a turban) round the corpse's head. Also, it is makrûh to put a turban or other ornaments on the coffin. Some (savants) said it is permissible, while others said otherwise, to use a shroud consisting

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[1] Please see the seventh chapter of the fourth fascicle for 'musta'mal water (mâ-i musta'mal)'.

[2] Karâhat is an attribute that makes something disliked or detestable. Something with karâhat is either makrûh or harâm.

of more than three parts; Imâm-i Rabbânî says that it is bid'at. It is sunna for the shroud to be new, clean, and of a valuable material. A shroud compatible with the dead person's financial status must be made. It is sunna for it to be made of white linen [cambric]. It is harâm to shroud a man in silk. Also, it is harâm to cover his coffin with silk. Silk is permissible for women. It is better to make the shroud from the dead person's own halâl property than for somone else to give it. It is good to prepare a halâl shroud when you are alive. A shroud washed with zemzem is permissible in the Hanafî Madhhab, but harâm in the Shafi'î Madhhab. According to the Hanafî Madhhab, all the zemzem disappears when the shroud becomes dry. But according to the Shâfi'î Madhhab, its traces still remain on the shroud, and this causes the zemzem to be dirtied by the corpse's blood and pus. It is not permissible to write the Basmala, âyats or sacrosanct names on the shroud or to put such writings in the grave. It is useful to make shrouds from the underwears or clothes of pious Muslims or Walîs or to put them in shrouds or on a corpse's face or chest. This fact is written also in the third letter of the first volume of **Ma'thûmiyya**.[1]

It is sunna for a woman's shroud to consist of five parts: Qamîs, Izâr, Lifâfa, Khimâr, and Breast Cloth. Khimâr is a head-wrap, which is about seventy-five centimetres long. Its ends are left hanging over the face instead of being wrapped around the face. Breast cloth extends from shoulders to knees.

It is permissible to wrap men who are poor or deeply in debt in izâr and lifâfa and such women in qamîs, lifâfa and head-cover only, i.e. in the minimum permissible measure of shroud termed **kafan-i-kifâya**, but it is makrûh to go below this limit. In case of a darûrat, only lifâfa is necessary both for a man and for a woman. If the dead person has no property, it is fard for others, e.g. for the Beyt-ul-mâl [the State] to provide the shroud. It is not sufficient to cover the awrat parts only. If the cloth (used as the shroud) is too small, the parts left open are covered with leaves or grass.

First, the lifâfa is laid in the coffin. Then, izâr is laid on it. The qamîs is put in the coffin, too. With women, a breast cloth is laid before or after the izâr. Then the bakhûr is turned three or five times round the coffin. The bakhûr is a fumigatory substance. [For example, such odoriferous substances as aloewood, incense, musk, sandalwood, dherîna (calamus aramaticus), gentian, and benzoin

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[1] **Maktûbât-i-Ma'thûmiyya**, by Muhammad Ma'thûm 'rahmatullâhi ta'âlâ 'alaih'.

are put in a fire in a shovel and fumigated.] It is better to fumigate each piece of the shroud separately before putting them in the coffin. Such fumigation is done also while the soul (of the dying person) is going out and before the washing of the corpse is started. It is not done while carrying the corpse or during the interment.

A hadîth-i-sherîf written in **Fatâwâ-i fiqhiyya** states: **"When Adam ''alaihissalâm' died, angels brought khanût** (a mixture of camphor, sandalwood, etc.) **and shrouds from Paradise. They washed him with water and cedar leaves. At the third** (washing) **they added camphor. They wrapped him in three shrouds. They performed the salât** (of janâza) **for him. They made a grave and interred him. Then, turning to his children, they said: O sons of Adam. Treat your dead like this."**

Shrouds must be washed and prepared beforehand even if they are new. It is necessary to prepare the shrouds beforehand. Khanût is sprinkled on all the three shrouds.

After the corpse is dried, the qamîs is taken out of the coffîn, passed over the corpse's head, and stretched down to the feet, one half along the front and the other half along the back of the corpse. Saying the Basmala, the corpse is made to lie on the izâr in the coffin. First the left hand side and then the right side of the izâr are laid over the corpse. The lifâfa is laid likewise on the corpse. That is, its right side is put on its left side. As a matter of fact, a person alive puts on his coat, shirt, etc. likewise.

When a woman's qamîs is closed, her hair is parted in the middle and both halves are passed over the sides and put on the qamîs over the breast. The khimâr is put over her hair and then it is covered with the izâr. The breast cloth is wrapped round the corpse before or after the izâr. Then it is covered with the lifâfa. The head and foot ends and the middle [around the belly] of the lifâfa are tied with a piece of cloth. A big boy is shrouded like a man, and a big girl is shrouded like a woman. A small boy is shrouded in one item, and a small girl is shrouded in two items. A child born dead or aborted or a human limb, [e.g. an arm], is not shrouded; they are wrapped in some cloth and buried.

When an exhumed naked corpse is found, it is shrouded and buried as prescribed by the sunna if it has not yet putrefied. If it has putrefied it is only wrapped in some cloth and buried.

The amount of the shroud prescribed by the sunna is bought with the dead person's (left) property (or money). Setting apart

the money to be spent for the shroud takes precedence over debts, will and inheritance. If the dead person has no property, his relatives for whom it is wâjib to subsist him buy his shroud together, each contributing proportionately with the rate of the inheritance they will receive. As a matter of fact, as he was alive they would club together to meet the expenses for his living proportionately with the shares they would get from the property he would leave behind. However, if he had sons and daughters, they would contribute equally. For, filial obligation of supporting the parents is to be shared equally, and not proportionately with the shares they would inherit.

If a dead person has his father and a son left alive, the son provides the shroud on his own. Even if a woman was rich, her husband provides her shroud. If a dead person has had no one to support him, his shroud is provided by the Beyt-ul-mâl. If the Beyt-ul-mâl does not function properly, it becomes fard-i kifâya for any Muslim who hears of his death to provide a shroud for him. If the person who hears of his death is poor, he asks for a shroud of necessity, that is, a cloth large enough to make a shroud, from others. In Istanbul it is customary to buy seven metres of cambric for a man's shroud and eight metres of it for a woman's. It is usually 130 to 140 centimetres wide. The coffin is closed, covered with a new bedsheet, and bound up with ordinary cord, which will also come in handy for lowering the coffin into the grave. The top of the coffin is covered with a green blanket with (Islamic) inscriptions on it; its sides are pinned to the bed-sheet. With women, a triangular head-wrap is also laid on the head side of the blanket. The coffin must be made from dovetailed wood without using any nails. After a short prayer and a general forgiveness of any past unjust actions, the corpse (in the coffin) is taken to the musallâ (the stone bench on which the coffin is put) and the salât (of janâza) is performed.

There are three kinds of **martyrs**: 1- If a Muslim who is not junub, who is not in her monthly period, who is discreet and has reached the age of puberty is killed cruelly and unjustly by being hit with a blunt and heavy or sharp weapon, or if he is killed with any weapon by the enemy while making jihâd against the enemies of Islam in a war for Allah's sake or by rebels, highwaymen, anarchists or (at night) by a burglar during the time of peace –if he dies immediately–, or if he is found dead with such signs of murder as a wound or blood on him at a place where there has been a conflict against the abovesaid (outlaws), where he must have been

in order to defend the lives and property of Muslims and dhimmîs, or if he is found dead in town and his murderer is known and qisâs (taliation) becomes necessary, he is called a martyr of the world and the Hereafter or a **perfect martyr.** The perfect martyr is not washed. Nor is he shrouded. His clothes exceeding the amount of material used for a shroud are taken off, and he is buried with his underwear. The salât of janâza for him is performed in the Hanafî Madhhab. But it is not performed in the Shâfi'î Madhhab. He attains the thawâb for matrydom in the Hereafter. 2- A person who does not intend to make jihâd for Allah's sake and who fights for worldly advantages becomes only a **martyr of the world.** Martyrs of this sort are not washed or shrouded. Yet they cannot attain the thawâb of martyrdom in the Hereafter. 3- If a person dies during the preparatory drills for jihâd, or if a person is killed with oppression, or wounded in jihâd or while fighting against anarchists, rebels, highwaymen or (at night) thieves and does not die immediately but stays alive and conscious until the duration of one salât time is over or is taken to somewhere else and dies there, or if he is junub or (she is) in her monthly regulation, he (or she) becomes only a **martyr of the Hereafter**. Martyrs in this group are washed and shrouded. Those who are killed by such chastisements as hadd, ta'zîr, qisâs [or who are executed by being shot or hanged], and those who are killed by a beast are washed, too.

Those who die drowning, burning or of destitution, or being crushed under a collapsing wall or other wreckage, those who die of diarrhoea, of plague [or another hectic disease], during lochia, of an epileptic fit, on a Friday night, (which is the night between Thursday and Friday), or on a Friday, or while learning, teaching or propagating religious knowledge, those who fall in love and die in their efforts to suppress their love and protect their chastity, those who die during an unjust imprisonment, those who die while serving as a muadhdhin for Allah's sake, while trading as commanded by Islam or while working and earning halâl so that their household will learn religious knowledge and worship, those who say the prayer, **"Allâhumma bârik lî fi-l-mawt wa fî-mâ ba'd al-mawt,"** twenty-five times every day, those who perform the salât of Duhâ, those who fast three days monthly, those who do not neglect their salât of witr in a safar, those who say the prayer, **"Lâ ilâha illâ anta subhânaka innî kuntu min-az-zâlîmîn,"** forty times on their deathbed, those who read (or recite) the Sûrat-al Yasîn every night, those who go to bed with an ablution and then die, those who always make mudârâ, [which means to dissimulate, to

give away what is worldly in order to protect one’s faith,] those who bring groceries and sell them cheaply, those who make ghusl in cold weather and become ill and die, those who say the prayer, **“A’ûdhu billâh-is-semî’il’alîmi min-ash-shaytân-ir-rajîm,”** three times and the last part of the sûrat-al **Hashr**, [that is, the part beginning with ‘Huwallâhulledhî...,] every morning and every evening; all these people become **martyrs of the Hereafter.** [(Bodies of) people called **Ahl-i-taqwâ,** who have never eaten anything earned through harâm, never rot. Not rotting (of a person’s body after death), for some other reason has nothing to do with martyrdom.]

Alî Ejhurî, (967-1066 [1656 A.D.],) an (Egyptian) scholar in the Mâlikî Madhhab, states: “A highwayman who gets drowned and a person who gets killed as he makes jihâd on the horse he has stolen and people who die in a house that collapses as they are sinning in it are all martyrs. For, people who die because of sinning are not martyrs. If a person dies as he (or she) is sinning but as a result of something that causes martyrdom, he (or she) becomes a martyr of the Hereafter; yet his (or her) sinfulness abides. Likewise, a person who drinks too much wine and bursts does not become a martyr. But a person who gets drunk with wine and then gets killed unjustly (by others) becomes a martyr. For, he has died not because of wine, but for some other reason. But he is liable to punishment for his sin. These facts are written in Ibni ’Âbidîn. It is stated in the fatwâs written by Khayr-ad-dîn Remlî and Muayyed zâda ’Abd-ur-Rahmân Efendi ‘rahmatullâhi ta’âlâ ’alaih’, two of the commentators of Ibni Nujaym’s book **Eshbah**: “If a person who has drunk wine gets murdered while he is drunk, he becomes a martyr. For, gravely sinful as it is to drink wine, it does not prevent martyrdom.”

15 – THE SALÂT (Namâz) of JANÂZA

The salât of janâza is fard-i kifâya for men who hear (of the death), and, if there are no men, for women. It is not makrûh for one woman to perform it alone or for more than one women to form a jamâ'at (and perform it in jamâ'at). A person who slights (the janâza salât) becomes a kâfir (unbeliever). There are six conditions to be fulfilled for the salât (of janâza) to be acceptable:

1 - The dead person must be a Muslim.

2 - The corpse must have been washed. If it has been interred before having been washed but earth has not been shovelled onto it yet, it will be taken out and washed and then the salât will be performed. The place where the corpse and the imâm are must be clean. It is not a condition for the jamâ'at's place to be clean. For, the fard will have been carried out by only the imâm's performing the salât. If the clothes, the shoes and the place stood on are najs (foul) the salât will not be sahîh. **Tahtâwî** 'rahmatullâhi ta'âlâ 'alaih' states in his annotation to **Imdâd-ul-Fettâh**: "If the corpse is in a clean coffin and if you take off your shoes the upper parts of which are clean and stand on them, the ground's being najs does not give any harm." If a woman or jâriya conducts the salât as imâm the fard will have been carried out. For, though the salât of the men who follow the woman will not be accepted, the woman's salât of janâza will be accepted and the fard will have been carried out by one person having performed the salât. It is permissible for a child to wash the corpse, but it is not permissible for it to conduct the salât of janâza.

3 - The corpse or half of the corpse and its head or more than half of it without its head must be ahead of the imâm.

4 - The corpse must be on the ground or close to the ground, held with hands or placed on a stone (bench). If the corpse is at some other place or on a beast or raised on hands, the salât of janâza will not be accepted. The corpse's head must be to the imâm's right and its feet must be to his left. It is sinful to place it the other way round.

5 - The corpse must be ready and before the imâm.

6 - The awrat parts of the corpse and of the imâm must be covered.

The salât of janâza has two farâid (fards):

1 - To make the tekbîr (to say Allâhuakber) four times.

2 - To perform it standing. It is not permissible to perform it sitting or on a beast without any 'udhr (excuse, imperfection, inability to perform an act in the prescribed manner). It is

permissible if you cannot get down from your beast because of rain or mud.

The salât of janâza has three sunnats:

1 - To say the Subhânaka.

2 - To say the Salawât. For, it is the sunna of prayers to say the Salawât before prayers.

3 - To say the ones you know of the prayers that have been prescribed for (entreating Allah for) mercy and forgiveness for yourself, for the dead person, and for all Muslims.

The salât of janâza is not performed for four kinds of Muslims:

1 - For bâghîs, that is, for rebels; that is, if those who revolt unjustly against the Khalîfa are killed while fighting, their salât is not performed. Nor is it necessary to wash them.

2- When bandits who waylay Muslims are killed in a fight, they are not washed and their salât is not performed.

If the bâghîs and the bandits escape and then are killed during such chastisements as **hadd**[1] and **qisâs**, they are washed and their salât is performed.

3 - If clans notorious for their cruelty are killed in a fight their salât is not performed.

4 - If an armed person raiding a house is killed in the act, his salât is not performed.

A suicide, that is, a person who has killed himself, is washed and his salât is performed even if he died immediately. It is written in Hindiyya that suicide is more sinful than homicide.

When a person guilty of matricide or patricide is killed by qisâs (taliation) his salât is not performed.

Each of the four tekbîrs of the salât of janâza is like a rak'at. The hands are raised up to the ears only with the first tekbîr. They are not raised with the next three tekbîrs. After both hands are clasped, the **Subhânaka** is recited, and the words, **"Wa jalla thenâuka"** are added in the recitation. The Sûrat-al Fâtiha is not recited. After the second tekbîr the Salawât is recited exactly as it is recited during the tashahhud (sitting posture in the daily prayers of salât). After the third tekbîr the du'â of janâza is recited. Presently after the fourth tekbîr the salâm is performed (by turning the head) first to the right and then to the left. [So far we have not been able to find any information in books concerning

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[1] Please see the tenth chapter of the sixth fascicle of **Endless Bliss**.

when the hands should be let to hang down. It is written in the annotations to the books **Durer** and **Halabî-i-saghîr:** "Hands are clasped while doing the (prescribed) recitals during the standing posture. If there is no recital the hands are let to hang down. First the hands are let to hang down, and then the salâm is made to both sides." We saw our superiors hang down their right hands as they made the salâm to the right and their left hands while making the salâm to the left. It is equally inferrable that both hands are let down before the salâm is made.] While performing the salâm, an intention for the dead person and the jamâ'at must be made. The imâm says only the four tekbîrs and the salâm to both shoulders aloud; he does the other recitations silently. [The du'â of janâza is a certain prayer, instead of which "Rabbanâ âtina fî-d-dunyâ..." is recited or one may only say, "Allâhummaghfir leh," or the Sûrat-al Fâtiha without the Basmala may be recited with the intention of saying a prayer. Saying prayers brings forgiveness to the dead person. And it brings promotion to Prophets ''alaihimussalâm' and children. If forty or a hundred people make a jamâ'at in three lines, this brings forgiveness to the dead person. The salât is performed before interment.] With the salât of janâza, there is more thawâb in (standing in) the hindmost line.

If the imâm says a fifth tekbîr instead of performing the salâm with the fourth tekbîr, the jamâ'at must not say it too. Waiting silently, they must perform the salâm together with the imâm.

The imâm stands exactly opposite the corpse's chest. A person who is late for the beginning of the salât does not begin as soon as he comes. He waits and then begins by saying the tekbîr as the imâm says one of the tekbîrs; he intends this tekbîr to be his **Tekbîr iftitâh** (beginning); and after the imâm recites the salâm, he says the tekbîrs he has missed one immediately after the other, and then makes the salâm without reciting anything. He who misses the fourth tekbîr has missed the salât.

If there are several corpses at the same time, it is very good to perform salât for each of them separately. It is permissible as well to perform one salât for all of them. For doing this, the corpses must be arranged in such an order that each corpse's head will be pointing to the feet of the other. The imâm performs the salât standing opposite the one with the highest rank. Thus some of the corpses are to the right of the imâm and others are to his left. Or, all the corpses being arranged side by side in front of the imâm, the imâm stands opposite the chests of all of them. Men's corpses have precedence and are placed first, then come boys', women's, girls'

corpses, respectively. [While making the niyya (intention) for them, it is not necessary to say that they are men or women.]

The salât of janâza is conducted by the head of the State. In his absence it is conducted by the head of the government; next comes the governor, and then come, respectively, the judge, the governor of the town, the vice-governor of the town, the assistant judge, and the imâm of the quarter. If the walî (guardian) of the dead person is sâlih (pious, devoted Muslim), the walî conducts the salât in the absence of the imâm. Only a man can be a walî; a woman cannot be a walî; nor can a child. A walî is one of one's close relatives of consanguinity. The husband cannot be (the wife's) walî. But if there is no walî present, the husband can conduct the salât of janâza (for his wife). Those who have the right to give the young child in marriage are his (or her) walî. The father takes precedence over the son in being a person's walî, that is, owner, guardian. If a dead person has no sons, brothers, paternal or maternal uncles, or a husband, one of the neighbors conducts the salât. The walîs can appoint any non-relative their deputy (to conduct the salât). Someone else, even if he is the person willed by the dead person, can conduct the salât with the walî's permission. If such a person conducts it without permission, the walî may have the salât repeated, conducting it himself this time.

If the corpse has been interred and covered with earth without the salât having been performed or after the salât has been performed without the corpse having been washed, the salât must be performed on the grave unless it is strongly believed that the corpse has putrefied. The beginning of putrefaction depends on the kind of soil, the season, the weather, and on whether the corpse is fat or thin. It varies between three days to one month (after burial).

[Such statements as "The nose falls on the fortieth day," "The corpse begins to rot on the fifty-third night" are not true, and it is wrong to have (the celebrated eulogy called) Mawlîd performed (only) on these nights. They are the words of a tomb-keeper named Ahmad, who claimed to have seen them in his dream. Every service done for the dead is an act of worship. Worships are learnt only from âyats, hadîths, and the words of mujtahids. Worships cannot be changed haphazardly with the words of this person or that or with dreams. Those who want to change or defile worships become kâfirs (unbelievers). Such services as reading the Qur'ân al-kerîm, giving alms, saying prayers that are to be done for the dead must not be postponed till the fifty-third night (fifty-three

days after death); we must try to rescue them by doing these services on the first day. Postponing these services till the seventh, the fortieth or the fifty-third night is like saying, “Wait for a while. I’ll come to your rescue a few days later,” to a person who is about to drown. Hadrat Muhammad Ma’thûm says in the eleventh letter of the first volume of his **Maktûbât**: “It will be a very good and great act of worship to give food and alms to the poor not customarily or for ostentation but for Allah’s sake and to gift the thawâb to the dead person’s soul. But there is no dependable report saying that this must be done on a certain day or night. That is, there is no such principle.” Many a time I have seen ads in Istanbul newspapers announcing that there will be religious rites at a Christian cemetery for some dead Christians on the fortieth day (of their death) and that their acquaintances are invited. When I asked them they said that it was their custom to help a dead person on the fortieth day of his or her death. This shows that performing such services as alms and mawlîd for the dead on certain days is a Christian disease that has spread among Muslims, too.]

It is harâm in the Madhhabs of Hanafî and Mâlikî to place the corpse inside the mosque and perform the salât of janâza there. There are some savants who say that it is not makrûh if the corpse is outside the mosque and some of the jamâ’at are inside it, but it is harâm to perform the salât in that manner, too. All the jamâ’at must perform the salât outside. For, mosques are built for performing the five daily prayers of salât and their subsidiaries, such as the salât which is supererogatory, sunna, [or qadâ], for reading (the Qur’ân al-kerîm or other religious books), for preaching and teaching Islam. In case of such ’udhrs as rain, a storm, or illness, the salât of janâza can be performed inside the mosque. But the corpse cannot be taken inside.

A child that dies immediately after birth is washed, its salât is performed, it is entitled to be a heir and to leave inheritance, and it is named. A child that is born dead is not washed and its salât is not performed if it is not four months old. If it is four months old it is washed, shrouded in one piece and buried; but its salât is not performed. The same is done when a child taken captive together with its parents dies and when an insane adult person taken captive dies. Such people will not go to Hell, but in the world they are treated like disbelievers. When a child taken captive without its parents or a child taken captive with its parents one of whom has been converted to Islam later or a discreet (seven-year-old) child that has been converted to Islam of its own volition dies, its salât is

performed. For being converted to Islam, a disbeliever has to say the Kalimat-i sahahâdat completely and believe the six principles of îmân, [that is, Âmentu...,] when he hears them.

You should not ask an unlearned person the principles of îmân and Islam; you should recount them to him and then ask him if he believes them. If his answer is affirmative, he should be judged to be a Muslim. If an unlearned person asked about îmân and Islam does not answer, it is all right. For, he says he does not know (or he does not answer at all) because he thinks the answer is to say certain words in a certain order. In other words, what he says he does not know is not îmân itself but how to express îmân. It is not wâjib for a Muslim to wash, to shroud or to bury a disbeliever. A disbeliever is delivered to other disbelievers. If there are no other disbelievers, it is permissible to wash him as you would wash dirty clothes, to wrap him in a piece of cloth and bury him in a Christian cemetery. A dead renegade is not washed or shrouded; nor is he delivered to the people of the religion he has converted to; like a dog's carcass he is left in a ditch. Whether a Muslim or an unbeliever, a corpse must never be cremated. Nor is it something permissible to keep its ashes. It is not permissible to break or cut the bones of a corpse even if it is an unbeliever's.

It is not permissible for an unbeliever to wash a Muslim's corpse, be it his relative.

We have stated that there are three times when it is not permissible to perform salât in the tenth chapter, dealing with **Prayer Times**, of the fourth fascicle of Endless Bliss. If a corpse has been prepared before one of these three times it is not permissible to postpone the salât of janâza till that time begins. It is written in **Marâqil-falâh**: "It is not makrûh but it is permissible to bury a corpse at (one of) these (three) times." It is permissible to perform the salât of janâza at any time of the day. It is not necessary to postpone it till after (one of) the five daily prayers of salât.

The salât of janâza is performed once. It becomes supererogatory if it is performed again even after one woman has performed it. It is makrûh to perform the salât of janâza as a supererogatory salât.

Although it is fard-i kifâya to perform the salât of janâza, to wash, shroud, arrange and bury the corpse, whereas it is wâjib to perform the salât of 'Iyd, (in cases when the salât of janâza concurs with the salât of 'Iyd) the salât of 'Iyd should be performed first lest those who are late for the jamâ'at confuse the salât of janâza with the salât of 'Iyd. It is explained in the twenty-second chapter,

dealing with the salât of 'Iyd, (in the fourth fascicle) that the salât of janâza for a corpse that is ready takes precedence over the Khutba of 'Iyd and over the final sunnats of Friday, evening, night and early afternoon prayers. However, the authors of the books **Hilya-t-ul Mujallî** and **Bahr-ur-râiq** 'rahmatullâhi ta'âlâ 'alaihimâ' state that the final sunnats must be performed first, immediately after the fard. It is mandûb (not obligatory but very good) to make haste for the washing, shrouding and burying of the corpse and for the salât.

[As is seen, whereas some (Islamic scholars) said that the salât of janâza should be performed before the sunnats (of some daily prayers of salât), others, (i.e. other Islamic scholars,) advised to perform it afterwards. None of them, however, said that the sunnats should be omitted in order to perform the salât of janâza. So, at times when the salât of janâza is to be performed the tasbîhs (that are said after each of the five daily prayers of salât) in mosques should not be omitted. Those who say that they have been omitting the tasbîhs because it is wâjib to perform the salât of janâza as soon as possible are wrong. It is not wâjib to make haste for the salât of janâza; it is mustahab. It is so appallingly paradoxical to, on the one hand, keep the corpse waiting so that more people should attend the funeral, while in fact it is makrûh to keep the corpse waiting so that there should be a large jamâ'at, and, on the other hand, omit (saying) the Âyat-al-kursî and the tasbîhs under the spurious excuse that it is wâjib to perform the salât of janâza as soon as possible. There shall be glad tidings for those muadhdhins who will eradicate this wrong practice by saying the Âyat-al kursî and the tasbîhs when there is a janâza (corpse), too. Please see the final part of the fourteenth chapter, entitled, **How Do We Perform Namâz**, in the fourth fascicle.]

It is not permissible to pray beside the coffin after the salât of janâza is performed. It is written in **Zubdat-ul-maqâmât**:[1] "After the salât of janâza for Hadrat Imâm Rabbânî 'qaddas-Allâhu ta'âlâ sirrah-ul-'azîz' was performed, they did not stay there to pray; he was taken directly to the cemetery. It is written in books of fiqh that it is makrûh to pray standing after the salât of janâza. Some imâms do so, but it is against the sunna." [It is written in the fatwâ of **Bezzâziyya** also that it is not permissible.]

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[1] It was written by Muhammad Hâshim Keshmî 'rahmatullâhi ta'âlâ 'alaih', (d. 1054 [1645 A.D.], Burhânpur.)

Closing my eyes, I meditate so deeply,
I see one guide in my soul and fancy.

Before looks whereby hearts attain purity,
Where am I; no, this is not a fantasy!

One look that removes drapes of vanity,
One smile that guides to endless felicity.

Source of lore, irfân, wonder, thaumaturgy,
This world of spiders is to him so ugly.

It's this guide that takes lovers to their dearie,
His followers become sultans endlessly.

His words are for souls drops of vitality,
When he talks he brightens hearts that are rusty.

The beloved one is what he pursues only,
For the ben ablaze with Signs he's so fiery.

His sohba, to pure souls sounds like amity,
His theriac is good to all misery.

(Highest of mankind, the true path's dominie,
Master of 'ârifs, who've solved life's mystery.

Acme of beauty, souls' sole entreaty,
Not only creatures', but Creator's dearie.)

That's Rasûlullah, he mirrors that beauty!
Hadîth called him 'Sila': his identity!

Prophets' heir, Mujaddid alf-i-thânî,
For his sake, from him part us not, Yâ Rabbî!

16 – CARRYING THE CORPSE and the BURIAL

To carry the corpse, you first take the front, right hand side of the (coffin containing the) corpse on your right shoulder and walk ten steps. Then, taking the hind part of the coffin where the (corpse's) right leg is, you carry it for ten more steps. Then, changing to the left hand side of the corpse, which is the right hand side of the coffin when looked from the rear, you carry it on your left shoulder, ten steps by the front and ten steps by the back of the coffin. All these add up to forty steps. A hadîth-i sherîf declares: **"If a person carries the janâza** (corpse) **for forty steps, forty of his grave sins shall be forgiven."**

When seeing a janâza, Muslims who happen to be in a store, in a cafe, etc. should at least carry it forty steps, walk behind it for a while, and say the Fâtiha and other prayers for his soul. It is written in **Marâq-il-falâh** and **Halabî-i-kabîr** that when seeing the janâza it is tahrîmî makrûh to stand up and wait with your face towards it. After carrying the janâza you should walk behind it. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' carried the janâza of Sa'd bin Mu'âz 'radiy-Allâhu 'anh'. What a great fortune!

It is makrûh to carry the janâza in a manner called **baynal 'amûdein,** which means two people carrying it, one person in front and the other in back, similar to carrying a stretcher. It is sunna to carry it in a manner called **terbî'** (four-sided), that is, on the shoulders and by four people holding on to wooden shafts. You do not pass the shaft between your arm and your shoulder; you hold it by the shaft with your hand and take it on your shoulder. It is not permissible to carry the janâza on your back or on a beast's back.

[Unless there is a darûrat[1], it is kerîh[2] to carry the janâza on a carriage or in a car, which is a disbelievers' custom; it tortures and harms the dead person; those who carry it in this manner become sinful. It is a grave sin to abandon Islamic customs and adopt disbelievers' customs. During the times of our Prophet 'sall-Allâhu

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[1] Lexical meaning of 'darûrat' is 'strong necessity'. Its meaning in the branch of Fiqh is explained in the fourth chapter of the fourth fascicle of **Endless Bliss**. Please review that chapter, particularly the fourth one of the methods whereby scholars of Fiqh used for the solution of newly arising problems in the performance of Islamic acts of worship.

[2] Something kerîh is something disliked by Rasûlullah 'sall-Allâhu 'alaihi wa sallam'. Acts that are 'kerîh' vary between **makrûh tanzîhî** (slightly kerîh) and **makrûh tahrîmî** (kerîh verging on harâm).

’alaihi wa sallam’ and the Sahâba ‘’alaihimurridwân’ corpses were carried only in a manner called terbî’. If government regulations or laws order the coffin to be carried on a hearse, obedience is necessary.]

A suckling, or a child slightly bigger, can be carried by one person, on both hands. This person (carrying the child’s corpse) may as well be on an animal. Big children are carried in coffins.

The janâza must be carried with such speed as not to joggle the corpse.

It is makrûh to delay the janâza till after Friday prayer so that the jamâ’at will be large. If it is feared that Friday prayer may be missed because of the time spent for the burial, then the salât of janâza can be delayed till after Friday prayer. [It is not permissible to delay the janâza till the following day so that his relatives living in distant places will be present too.]

The salât of ’Iyd is performed before the salât of janâza, and the salât of janâza is performed before the khutba of ’Iyd. People waiting for the salât of janâza in the musallâ do not stand up before the janâza is put on the ground. The author of the book **Surrat-ul-fatâwâ** ‘rahmatullâhi ta’âlâ ’alaih’ states: “Those who sit in the musallâ should not stand up when the janâza is brought there.”[1]

Those who attend a funeral should walk close behind the janâza. It is sunnat-i muakkada to attend a funeral. According to the Shâfi’î Madhhab you walk ahead of the janâza. Women do not attend funerals. The janâza is carried silently. That it is bid’at, sinful to say tekbîrs, tehlîls, ilâhîs loudly, is written in **Halabî-i-kebîr**, in **Marâq-il-felâh** and also in its annotation rendered by Tahtâwî, in **Ni’mat-i-islâm** and in the final section of the commentary to the book **Shir’at-ul-islâm**. You should not absent yoursef from a funeral wherein such acts of bid’at are committed, but you should prevent them if possible. However, it is necessary not to attend a feast that has such bid’ats. Although it is permissible to walk before the janâza or beside it, it is better to walk behind it.

It is permissible to have your grave dug while you are alive. If the grave is on your property (land), it will belong to you. If it is not in your property or if you have not bought your grave in the cemetery, someone else may be buried there as well.

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[1] It was written by Muhammad Sâdiq bin ’Alî of Sakız (Chios) ‘rahmatullâhi ta’âlâ ’alaih’, (d. 1059 [1649 A.D.].)

It is necessary and sunna and very useful to bury the corpse in a large cemetery. It must be buried near (the graves of) sâlihs (pious Muslims) and Awliyâ 'rahmatullâhi ta'âlâ 'alaihim ajma'în'. The grave must be far away from the graves of sinners and fâjirs and, especially, from the graves of disbelievers and renegades. It is not good to bury the corpse at a dank place. It must be buried at a dry place if possible. Burying it at a dank place causes it to rot fast. In Islam the corpse should rot late. If the earth is dank or loose it is good to bury the corpse in a coffin.

To carry flowers and garlands with the janâza, to put them on the grave, to wear badges, signs and pictures of mourning are disbelievers' customs. It is harâm for Muslims to do such things, and they are harmful to the dead person, too. It is declared in a hadîth-i sherîf, which is transmitted by Ibn Mâja and written in **Kunûz-ud deqâiq: "Do not take the janâza** (to the cemetery) **with noise, fire, lights or other things."** It is good to lay a piece of silk or other kind of cloth on a grave that is in a room-like tomb, or to sprinkle rose leaves on the cloth, and thus to give it an odorous scent. That this is permissible is written in the Persian book **Tahqîq-ul haqq-il mubîn,** by Ahmad Sâ'îd-i Serhendî 'rahmatullâhi ta'âlâ 'alaih', (1217, Rampur, India – 1277 [1861 A.D.], Medîna-i-Munawwara.)

It is fard-i kifâya to dig a grave and to bury the corpse in the grave. [If the number of Muslims required to bury the corpse is not sufficient, it will then become fard for anyone who has been informed of the death to be present at the place of burial. If nobody can be found to do the service free and paid grave-diggers are hired, then every Muslim who didn't serve although they had been informed will be sinful. They will become fâsiq. To bury the corpse, like performing the salât of janâza, is an 'ibâdat. It is fard to do such an 'ibâdat free of charge. Any payment received will become harâm. It is permissible for poor people to do this fard in return for money if nobody can be found to do this service free, lest the corpses of Muslims should be left in the open. Payment received by these people will become halâl, yet this solution will not exonerate those who shun from doing the service gratis from the state of fisq they incur. That is, they will become sinful. Since burying the deceased person's body is fard, anyone who shuns this responsibility by underestimating the fard and argues that it would be fundamentalism to bury a corpse or that it would be better to cremate it like the disbelievers called Buddhists, Hindus and Communists, or by scientific reasoning, will lose his îmân (belief)

and become a murtadd.]

It is not permissible to put it on the ground, in a building, or in marble without digging the earth. If it is not possible to take a person to land who has died on a ship, it is not fard to bury him. Two people cannot be buried in one grave unless it is inevitable. Before a corpse has rotted and its bones have become earth, someone else's corpse cannot be buried in its grave. If it is impossible to dig another grave, the bones (of the former) are put together (on one side of the grave) and earthed up; then the latter can be buried in the other side of the grave. When the corpse rots and changes into earth, another corpse can be buried in the grave. If the plot of land does not belong to Waqf and if it is someone's property, the owner can use this land as a field or build a house on it. The fatwâ states so, too. It is written in the section about afflictions incurred by one's hands in **Hadîqa**: "After the corpse has rotted and become earth, it is permissible to bury someone else in its grave or to cultivate the place of the grave or to build a house on it. If graves remain under the waters of a flood or river, it is not permissible to unearth the corpses (or bones) to bury them somewhere else." If an abandoned cemetery of disbelievers no longer bears any sign of disbelievers, Believers may be buried or a mosque may be built there. As a matter of fact, the building plot of Masjîd-i Nabî in Medîna-i-munawwara used to be the unbelievers' cemetery. The graves were dug, the bones were taken out and buried somewhere else.

It is written in **Jâmi'ul-fatâwâ**: "The depth of the grave must be equal to the length between a man's chest and feet. It is better if it is as deep as a man's height." The grave must be deep so that water will not leak into it, scent will not leak out of it, and beasts will not be able to dig it up. It must be equal to the corpse's stature in length, and its width must be half its length. Lengthways the grave must be perpendicular to the direction of qibla. It is sunna to make a lahd. A lahd is a niche dug on the qibla side of the grave, that has already been dug, and all along the grave. It must be large enough to receive the corpse in width and depth. The corpse is put on its right side in the lahd. You do not make a shaq (furrow), that is, you do not dig a trench along the middle of the grave already dug and put the corpse in it. If the soil is weak and damp, you put the corpse with the coffin in the niche or directly in the grave. If the soil is dry and strong, it is makrûh to bury a man together with the coffin. It is also makrûh to spread such things as felts or mats under the corpse. If you bury it with its coffin, you must put some soil in the

coffin. It is always very good to bury women's corpses in their coffins.

If a person dies on a ship and if his corpse may putrefy before the ship reaches land, he is washed and shrouded and his salât is performed; then, if disbelievers' land is close by, the corpse is put into the sea with some heavy object tied to the shroud. If you are closer to the Muslims' coast, you do not tie a heavy object to the shroud.

It is not permissible to bury the corpse of a person in the room where he died. It must not be buried near a school or tekke, either; it must be taken to a Muslims' cemetery.

It is written in **Shir'at-ul islâm**: "When the janâza is put on the ground near the grave, those who do not help with the work should sit or squat down. They should not stand like Jews and Christians. It is mustahab to recite seven sûras as the corpse is buried. These seven sûras are Innâ andhalnâ, Kâfirûn, Idhâ jâeh, Ikhlâs, the two sûras beginning with Qul a'ûdhu, and Fâtiha. Also, it is mustahab to give alms and present the thawâb to the dead person's soul every day for one week after the burial."

An odd or even number of people go into the grave, turn towards the qibla, take the corpse, which has been placed on the qibla side of the grave and lengthwise parallel to the grave, and put it in the grave or in the lahd with its face towards the qibla. When doing this they say the prayer, "Bismillah wa billah wa 'alâ millat-i Rasûlillah, sall-Allâhu 'alaihi wa sallam." They do not say the adhân. The corpse's face is turned towards the inside of the lahd, and earth and sun-dried bricks are put behind it. Then the grave is filled with earth. It is not permissible to reopen the grave to turn the corpse towards the qibla if it has been placed the other way round. For, it is harâm to reopen a grave. It can be reopened to take something left in the grave. The ends of the shroud are undone in the grave.

The author 'rahmatullâhi ta'âlâ 'alaih' of the book **Mîzân-ul kubrâ states**: "It is unanimously stated by the four Madhhabs that the grave side of the lahd is covered with sun-dried bricks or a mat. It is makrûh to cover it with baked bricks or with wood. [Nails, baked things such as bricks are ornamental items. It is makrûh to use them.] It is permissible to cover the outer part of the grave with bricks, wood, or marble stones. The blessed lahd of Rasûlullah (sall-Allâhu 'alaihi wa sallam) was covered with nine sundried bricks. If a woman's corpse is interred without a coffin, a large piece of cloth must be used as a curtain."

The grave is covered with earth. The top of the grave must not be more than a span above ground level. It is mustahab to cast three handfuls of earth on top of the grave from the head side.

After the interment, it is mustahab to sit around the grave for a few minutes, or to read (or recite) the beginning and final parts of the Sûrat-al Baqara, and to pray and do istighfâr for the dead person. [Christian priests stand by the grave and pronounce benedictions. Muslims should not say their prayers standing like priests. They should squat and then say their prayers.] It will be of great use if some pious Muslims perform khatm and khatm-i tehlîl gratis by dividing the business among themselves and send the thawâb to the dead person's soul; they may do this by coming together in the home of one of them as well as by every one doing it in his own home. [It is disbelievers' custom to make speeches by the grave. It is not permissible to make speeches like disbelievers or to praise the dead person with such attributes as he did not actually possess. And it is useless and unecessary to praise him (or her) with attributes that he (or she) had. It is permissible to weep for the dying person. It is written in **Sharh-us-sudûr**[1] and **Berekât** that "Heavens weep for the death of a Believer." It is not permissible to cry loudly for a dead person, to mourn, to wear black clothes, to hang black curtains, rosettes, ornaments, to bear mourning badges or the dead person's photographs. The author 'rahmatullâhi ta'âlâ 'alaih' of the book **Khazânat-ur riwâyât** states: "It is not permissible to cover the janâza or the place of the janâza with black pieces of cloth or to wear black clothes."]

It is sunna to pour water onto the grave. It is not sunna in the Hanafî Madhhab to make the top of the grave straight. It is sunna to make it protuberant and round like the ridge of a fish. It is not permissible to whitewash the inside of the grave with lime or to plaster it with cement. It is written towards the end of **Halabî-i kebîr** that it is permissible in the Hanafî Madhhab to make mausoleums or buildings over the graves of savants and great men of the religion in order to protect them. This is written also in **Mîzân-ul-kubrâ** and at the end of **Uqûd-ud-durriyya**. But it is harâm to make them for adornment. It is permissible to protect the grave by making a stone and cement wall or iron railing around it.

It is permissible to place tombstones over graves. It is not

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[1] It was written by Jelâl-ud-dîn 'Abd-ur-Rahmân bin Muhammad 'rahmatullâhi ta'âlâ 'alaih', (849 [1445 A.D.], Egypt – 911 [1505], the same country,) a great scholar in the Shâfi'î Madhhab.

permissible to inscribe âyats, blessed names, poems, eulogies, the word Fâtiha or to put the dead person's picture on the stone. Such things are bad bid'ats, though they have been done for years. Bad customs are not indications of permissibility. They (savants) said that it is permissible to write the person's name and the hijri date of his death on the tombstone.

When an expectant mother dies, if the child is alive, her womb is cleaved on the left side and the child is taken out. If an expectant mother's child dies inside the womb and if it will cause the mother's death, an obstetrician inserts her hand through the vagina, cuts the child to pieces with her implements, and takes it out. If (it is feared that) the child will cause the mother's death though it is alive, it is not permissible to cut [kill] the child. For, it is not known for certain that it will cause the mother's death; it is an anticipated probability. It is not permissible to kill a human being to prevent an anticipated danger. If a person swallows someone else's property and then dies, and if he has no other property to pay for it, his abdomen is cleaved and the property is taken out. There is more thawâb for men in attending their neighbor's, relative's or friend's funeral than in performing supererogatory worship.

It is mustahab to bury the janâza in the city where he or she died. It is permissible to take the corpse to a two or four kilometre distance. The janâzas of Ya'qûb and Yûsuf 'alaihim as-salâm' (the Prophets Jacob and Joseph) were transported from Egypt to Damascus, but transportation (of corpses) was permissible in their dispensations. It is written in the fifth volume of **Radd-ul muhtâr** that transportation is not permissible after the burial. It is bâtil (invalid) to will (in your last request) to be transported to somewhere else.

When you meet a young or old male member or an old female member of a bereaved family it is sunna to afford condolences to them. The condolatory statement is a certain Arabic expression: **"A'zamallâhu ajrak wa ahsana azâ-ak wa ghafara li-mayyitik,"** which means, "May Allâhu ta'âlâ add to your thawâbs, promote your grade, and give you beautiful patience, and may He forgive the sins of the mayyit (dead person)." There is no thawâb for disasters and grievances; there is thawâb for being patient about them. But they will cause the forgiveness of your sins even if you are not patient about your grievances. Illness is a grievance, too. It is permissible for the bereaved person to stay at some place for less than three days for consolation; but it is not permissible to stay

in a mosque, and women are not permitted to stay anywhere (for consolation). Prayers are said after the burial, and (sections from) the Qur'ân al-kerîm are read or recited silently. It is makrûh to read them loudly. Then the jamâ'at and the bereaved must leave for their work. It is makrûh to offer consolation after the third day (of the death). However, it is not makrûh for those who are far away and those who have heard of the death later although they live at a nearby place. Also, it is makrûh to offer consolation twice, or to do it by the grave, in the dead person's home or at his door. Consolation can be done by letter as well. It is mustahab for the neighbors and the nearby relatives to send a day - and - night's food to the bereaved family. When Ja'fer-i Tayyâr 'radiy-Allâhu 'anh' was martyred with more than seventy wounds with swords and arrows, Rasûlullah 'sall-Allâhu 'alaihi wa sallam' commanded food to be sent to his home. It is makrûh and an ugly bid'a to dole out food, such as sweetmeat, from the bereaved home. It is makrûh to make such things as sweetmeat and shortbread on the first, third, seventh, [fortieth or fifty-third] day, to mete out food by the grave, or to invite hâfizes, khodjas, reciters of mawlid and have them read (or recite) (religious poems, etc.), and give feasts. Such things are being done mostly for ostentation and fame. Whilst these bid'ats are being done many harâms are being committed as well. Also, it is bâtil (invalid) to will (in your last request) that these things be done. (Such wills) are not to be obeyed, for it is sinful. You must not wait until the fortieth day; you must make such presents as prayers, khatms and alms and have the congregational prayers such as the mawlîd performed, provided men and women will not gather together at the same place, on the very first day of the death. The thawâb (for pious acts) must be sent as presents to the dead person's soul. It is sinful to hold meetings incompatible with Islam for the dead in mosques and to have a mawlid recited in those meetings. As it is sinful for women and men to sit together for other occasions, it is worse for them to come together for a mawlid. To commit sins in acts of worship is worse than committing them otherwise. The prohibition of performing a salât (namâz) at three different periods of time is analogous to this. There is no thawâb for the salât performed at a forbidden time or place, and it is sinful. For, it has been performed despite the prohibition. It has been forbidden for women, covered as their awrat parts may be, to sit among men (nâ mahram to them). This prohibition will be more

sinful if it is committed in the name of an act of worship in mosques.

It is sunna to do telqîn[1] [standing against the qibla and the grave] after the burial. It has been said (by savants) that it might as well not be done. It is said in the book **Majmâ'ul anhur**: "It was said that it would be possible to do telqîn even after death. For, the soul and wisdom are given back, so that the deceased understands the telqîn. The same applies in the Madhhab of Shafi'î. Although some savants argued that telqîn has neither been commanded nor forbidden, (therefore it is not permissible), it would be better to do it." It is written in the book **Jawhara-t-un-nayyira** that it would be permissible to do telqîn to the deceased in the grave. In the book **Nûr-ul yaqîn fî mabhas-it telqîn**[2], it is proved with various proofs that it is sunna to do the telqîn. It is written in **Jilâ-ul qulûb**[3] and **Ghâliyya** that: "Rasûlullah ''alaihissalâtu wassalâm' commanded telqîn to be done after the burial. And he himself performed the telqîn." It is written in detail in Qâdî-zâda's commentary to the book **Birgivî Vasiyetnamesi** how the telqîn is to be done. There is no need to do telqîn to people who will not be interrogated in the grave. It is written in **Sirâj-ul-wahhâj**[4]: "The savants of Ahl-as sunna unanimously declare that all people will be questioned in the grave. A dead child will be inspired by Allâhu ta'âlâ how to answer." Ibn 'Abd-ul Berr and Imâm-i-Suyûtî say that, "Only the Ahl-i qibla will be questioned, whether they be true Believers or munâfiqs." Accordingly, the report stating that Hadrat 'Umar was questioned and giving a quotation of his answers is correct. Muhammad bin Alqamî, a disciple of Suyûtî, passed away in 929 hijri. He says in his explanation of his master's book of ahâdîth, **Jâmi'us saghîr:** "Disbelievers are not questioned in the grave. Of Believers, nine kinds of people are not questioned in their grave: a martyr, a person who dies while keeping guard against the enemy, a person who dies of an epidemic disease such as plague or cholera, a

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[1] Prompting the articles of îmân to the deceased person, so that he may answer the interrogating angels.

[2] It was written by Mustafâ bin Ibrâhîm Siyâmî of Thailand.

[3] It was written by Zayn-ud-dîn Muhammad bin 'Alî of Birgi 'rahmatullâhi ta'âlâ 'alaih', (928 [1521 A.D.], Balikesir – 981 [1573], Birgi, Turkey.)

[4] It was written by Abû Bakr bin 'Alî Haddâd Yemenî 'rahmatullâhi ta'âlâ 'alaih', (d. 800 [1397 A.D.].)

person who does not flee when such a disease spreads, who waits patiently and then dies for some other reason, siddîqs, children who have not reached the age of puberty, those who die on Friday or on Friday night (the night between Thursday and Friday), those who read the Sûrat-at **Tebâraka** [and the Sûrat-as Sajda] every night, those who read the Sûrat-al **Ikhlâs** on their deathbed are not questioned in their grave. Prophets ''alaihimussalâm' are included among the siddîqs." A deceased person is not questioned in his coffin even if he stays there for a few days. The questioning is done in the grave. Qâdı-zâda Ahmed Efendi says in the book **Âmantu sharhi**, which is entitled **Farâid-ul-fawâid**: "The questions are on some of the articles of îmân or on various articles of îmân and deeds; or different people are asked different questions." The book **Îmân ve 'Ibâdet**, by Muderris Muhammed Demir Hâfiz, was published in 1344 [1926], and was authorized by the committee of scrutiny of the Ministry of Religious Affairs. It is written in that book: "The following must be memorized for answering the angels of Munker and Nakîr in the grave: My Rabb (Creator, Owner) is Allâhu ta'âlâ, my Prophet is Muhammad 'alaihissalâm', my Dîn (religion) is Islâm, my (holy) Book is the Qur'ân-i 'azîmushshân, my Qibla is the Ka'ba-i sherîf, my Madhhab in belief is Ahl-i sunna wal jamâ'a, my Madhhab in deeds is Imâm-i a'zam Abû Hanîfa." Ahmed Asım Efendi says in the commentary to **Amâlî**: "Even if a corpse was broken into pieces and then eaten by wolves, or burned in a fire, or decayed in the sea, he will certainly be questioned and will suffer the torment or enjoy the blessings in the grave. Disbelievers and sinners who die without tawba will suffer torment in the grave. It is said in hadîth-i sherifs: **"The grave will be either a garden of heaven's gardens or a pit of hell's pits."** and **"We trust ourselves to Allah from suffering torment in the grave."** and **"Don't splash urine on yourself. Most people will suffer torment in the grave because of this."** and **"The deceased person feels annoyance with the wailings of his spouse and children."** Rasûlullah 'sall-Allâhu 'alaihi wa sallam' was standing beside two graves, when he said: **"These two people are suffering torment in their graves, one of them because of not being careful about splashing urine, and the other one due to the gossip he spread among Muslims."** No matter at what age they die, both the men and the women in Paradise will be thirty-three years old.

The following hadîth-i-sherîf is quoted in the book **Najât-ul-**

musallî[1] on the authority of the book **Hisn-ul-Hasîn**[2]: “**If an invalid person says the prayer, ‘Lâ ilâha illâ anta subhânaka innî kuntu min-az-zâlimîn’ forty times he will die as a martyr. If he recovers his sins will be forgiven**.”

O, Thou, Owner of earth’n heaven, Allâhussamad art Thou called!
With sins beyond count, I’m at Thine door, turn not me down!

With Thine Kindness and Favour, Thine Forgiveness, o my Rabb,
A black-faced vagabond as I am, let not me down!

Thine is pardon for sinners, and Thou, alone, help the wretched;
Thine is Kindness with Justice, Thy Mercy showers down!

Thou art the Darling of souls, Remedy for all afflicted;
Thou art the Sultân of worlds; and me, needy and down!

All goodness cometh from Thee, Khâliq, Ma’bûd, Allah ehad!
Who shall I go to, if Your Highness rejects me down?

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[1] It was written by Ahmad Shawqî Efendi of Istanbul.

[2] Written by Ibn Jezerî (Jazarî), Shams-ud-dîn Muhammad bin Muhammad bin ’Alî, (751 [1350 A.D.], Damascus – 833 [1429], Shîrâz.)

17 – VISITING GRAVES and READING (or reciting) THE QUR'ÂN AL-KERÎM

Imâm-i Birgivî 'rahmatullâhi 'alaih' says in his book **Atfâl-ul muslimîn** that it is sunna to visit Muslims' graves. It is written in **Ihyâ-ul 'ulûm**: "It is mustahab to visit graves for remembering death and for taking warning from the dead and getting baraka from the graves of Sâlih Muslims and Walîs." To take a warning you imagine how the corpse rots, how its cheeks and lips fall down, how filthy water flows from its mouth, how its abdomen swells and bursts, how worms and insects swarm into it. Khâtim-i Esâm[1] says: "If a person going by a cemetery does not think of them (the deceased) and pray for them, he has been treacherous to himself and to them." Men have been commanded to visit graves. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' accursed women who visited graves. Some (savants) say that he gave them permission later. And some (savants) say that it is makrûh. It has been unanimously declared (by savants) that it is not permissible for women to carry the janâza. Fâtima 'radiy-Allâhu 'anhâ' visited Hadrat Hamza's grave, and trimmed and mended it every year. A hadîth-i sherîf declares: **"If a person visits the graves of his parents or the grave of one of his parents every Friday, his sins will be pardoned, and he will have paid their rights."** Muhammad bin Wâsi' visited graves every Friday. When it was suggested to him to visit them on Mondays, he said: "The deceased recognize those who visit them on Fridays, Thurdays and Saturdays." Dahhâk-i-Balkhî, (d. 1002,) says: "The deceased recognizes the person who visits his grave before sunrise on Saturday. This shows the virtue of Friday." Rasûlullah 'sall-Allâhu 'alaihi wa sallam' visited the graves of his Muslim relatives and of his Sahâba. A hadîth-i sherîf declares: **"If a person says the following prayer as he visits the grave of a Believer, that deceased person will be relieved from torment till the Rising Day: Allâhumma innî es'aluka bi-hurmati Muhammad 'alaihis-salâm' an lâ-tu'azziba hâzal-mayyit."** It is written in **Shir'at-ul-islâm**: "For visiting a grave compatibly with the sunna, you make an ablution, perform two rak'ats of namâz and send its thawâb to the soul of the deceased person. When you arrive at the cemetery you say, 'Wa 'alaikum salâm.' Saying the

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[1] Abû 'Abd-ur-Rahmân bin Alwân Khâtim-i-Esâm 'rahmatullâhi ta'âlâ 'alaih', (d. 237 [852 A.D.].)

prayer transliterated above you sit against the deceased person's face. You recite the Sûrat-al Yasîn-i sherîf or other sûras that you know. You say tasbîhs and pray for the deceased person." Abul Qâsim[1] says: "When you read (or recite) sûras from the Qur'ân al-kerîm near the grave, the deceased person hears your voice and relaxes." A hadîth-i sherîf declares: **"If a person makes salâm as he goes by the grave of someone he knows, the mayyit** (deceased person) **recognizes him and acknowledges his salâm."** For this reason, when going by a grave, Abdullah ibn 'Umar 'radiy-Allâhu 'anh' would stop and make salâm. Nâfi' says: "Abdullah ibn 'Umar used to come to the grave of Rasûlullah 'sall-Allâhu 'alaihi wa sallam' and say: Assalâmu 'alannabiyy, assalâmu 'alâ' Abî Bakr, assalâmu 'alâ Abî. I saw him say so more than a hundred times." Al imâm-al-Ghazâlî 'rahmatullâhi 'alaih' says in his book **Ihyâ**: "When visiting a grave, it is mustahab to make salâm, to leave the qibla behind you and sit against the mayyit's face. You do not touch the grave with your hands or face or kiss the grave." The best way is to stand by its feet with your back towards the qibla **(Ibni 'Âbidîn).** A hadîth-i sherîf declares: **"If a person going by a cemetery says the sûrat-al Ikhlâs eleven times and presents the thawâb to the deceased, he will be given as many thawâbs as the number of the deceased."** Ahmad bin Hanbal 'rahmatullâhi ta'âlâ 'alaih' says: "When you go to a cemetery say the sûra of Fâtihâ, the two sûras beginning with Qul'a'ûdhu, and the sûra of Ikhlâs! Send the thawâb to the deceased. The thawâb will reach all of them."

There are three groups of acts of worship. Acts of worship in the first group involve property only. Such are zakât and alms. The second group involve both property and body. Such are hajj and jihâd. Worships in the third group involve body alone. In this group are reading (or reciting) the Qur'ân al-kerîm, performing namâz, saying tesbîh, tehlîl and tahmîd, and saying prayers. It has been declared unanimously by the savants of Ahl-as sunna that it is permissible to present the thawâb for the first group to the deceased and that the thawâb will reach them and will be useful for them. So is the case with praying, which is in the third group. That the case is so with the second group has been argued by most savants. There has been disagreement among the four Madhhabs about those of the third group with the exception of saying prayers. In the Madhhabs of Hanafî and Hanbalî the third group

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[1] Abul Qâsim 'Abd-ul-Kerîm Qushairî, (d. 465).

are like the first group. Hasan ‘radiy-Allâhu ’anh’ says: “If you say the prayer, **‘Allâhumma Rabb-al-ajsâd-il-bâliyeh wel’izâmin-nahirat-illatî harajat min-ad-dunyâ wa hiya bika mu’minatun. Ad-hil-aleyhâ rawhan min ’indika wa salâman minnî,’** when you enter a cemetery, you will be given as many thawâbs as the number of the dead people lying there.” Here we end our translation from the booklet **Atfâl-ul muslimîn**. Imâm-i-Shâfi’î and Imâm-i-Malikî ‘rahmatullâhi ta’âlâ ’alaihimâ’ said that the thawâb for the worships done with the body is not given to the dead people. But later Shafi’î savants said that if it is made by the deceased person’s grave and gifted, or if you do it (read or recite the Qur’ân al-kerîm, say a prayer, etc.) at a distance and then “O my Rabb, please make equal amount of thawâb reach (the deceased),” it will reach the deceased.

A hadîth-i sherîf, which is written in the commentary to the book **Shir’at-ul islâm,** states: **“The most valuable worship to be done by my Umma is to read the Qur’ân al-kerîm by looking at the Book.”** And it is written in **Kitâb-ut tibyân**: “The best recitation of the Qur’ân al-kerîm is the one done in salât.” [A hadîth, which exists in the ninety-third letter of the third volume of **Maktûbât** by Hadrat Muhammad Ma’sûm ‘rahmatullâhi ’alaih’, declares: **“Recitation of the Qur’ân done in salât is more useful than that which is done outside of salât.”** This hadîth-i sherîf is written in **Hazînat-ul esrâr** together with its sources.] Hadrat Alî ‘radiy-Allâhu ’anh’ stated: “A hundred thawâbs are given for each letter of the recitation of the Qur’ân done when standing in the salât. When it is recited (or read) with an ablution outside the salât twenty-five thawâbs are given for each letter. When it is recited without an ablution ten thawâbs are given. And fewer thawâbs are given if it is recited when walking or doing some work.” Reading one âyat and thinking of its meaning produces much more thawâb than reading the whole Qur’ân and thinking about something else. It is a very ugly bid’at to read the Qur’ân al-kerîm melodiously, which has become customary among the hâfizes recently; it is very sinful. You must read the Qur’ân al-kerîm with a mellifluous and sorrowful voice and with fear of Allah. It is written in **Fatâwâ of Bezzâziyya**: “A person who reads the Qur’ân al-kerîm melodiously like singing will not be given any thawâb.” It is wâjib to say the A’ûdhu when beginning to read (or recite) a sûra or an âyat. And when beginning to read (or recite) the Fâtiha it is wâjib to say also the Basmala. It is sunna to say the Basmala when beginning (to read

or recite) other âyats. A hadîth-i sherîf declares: **"When you read the Qur'ân al-kerîm observing the rules of tajwîd, you will be given twenty thawâbs for each letter. You will be given ten thâwabs if you do not follow the rules of tajwîd."** It is one of the gravest sins to forget an âyat after having memorized it. A hadîth declares: **"Nûrs rise up to the 'Arsh from a house where the Qur'ân al-kerîm is being read."** Abû Hureyra 'radiy-Allâhu 'anh' said: "Baraka and goodness come to a house where the Qur'ân al-kerîm is being read (or recited); angels come together there; devils flee from there." It produces plenty of thawâb to listen to the Qur'ân al-kerîm being read. A hadîth-i sherîf declares: **"An âyat one listens to will be a nûr** (light) **for one on the Day of Rising."** Reading the Qur'ân al-kerîm must not be made a means of living. A hadîth-i sherîf declares: **"When reading the Qur'ân al-kerîm, wish for Allah's love and for Paradise! Do not wish for what is worldly! Such a time will come when hâfizes will make the Qur'ân al-kerîm a means for approaching people."**

It is written in the book **Shir'at-ul-islâm**: "It is mustahab to do a khatm of the Qur'ân al-kerîm, that is, to read the whole of it, in forty days. It is not permissible to do a khatm in less than three days. The prayer done at the end of a khatm is acceptable. You must try to attend (places where) prayers of khatm are being done. When the khatm is over, you must read the Fâtiha with the intention to begin a khatm again. A hadîth-i sherîf declares: **"The best of mankind is one who begins a new khatm when one khatm is over."** The book **Qâdî-Khân**, in its chapter dealing with qirâ'at while performing salât, says that there are some savants who said that it would be makrûh to do the prayers of khatm in jamâ'at. But the later scholars said that it would be better. Those who do so should not be prevented."

A hadîth-i sherîf, which exists in the book **Tenbîh-ul ghâfilîn**[1], declares: **"Even if the** (dead) **parents of the person reading the Qur'ân al-kerîm are disbelievers, their torment is lessened."** A tradition (conveyed by savants) declares: "The number of the grades in Paradise is the same as the number of the âyats (verses) in the Qur'ân al-kerîm. A person who accomplishes a khatm of the Qur'ân al-kerîm will attain to all those grades." A hadîth-i sherîf, which exists in **Kunûz-ud deqâiq** and which is transmitted by

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[1] Written by Abul-Leys Semerqandî 'rahmatullâhi 'alaih', (d. 373 [983 A.D.].)

Tabarânî[1] and Ibn Hibbân, declares: **"The prayer of a person who accomplishes a khatm of the Qur'ân al-kerîm is acceptable."** It is written in **Kitâb-ut tibyân**[2], "Rahma (Allah's mercy and compassion) rains on a place where the khatm of the Qur'ân al-kerîm is performed. It is mustahab to say prayers after a khatm. It is mustahab to assemble when doing a khatm of the Qur'ân al-kerîm. Hadrat Abdullah ibn 'Abbâs would have one of his men keep company with the person doing a khatm. And he himself would join them when the khatm was finished. Hadrat Enes bin Mâlik would gather his household together and pray whenever he did a khatm. It is mustahab to begin another khatm when one khatm is over. A hadîth-i sherîf declares: **"The best of worships is to begin a new khatm when one khatm is over."** Hadîths, which exist in **Khazînat-ul esrâr,** declare: **"Sixty thousand angels pray for a person who makes a khatm of the Qur'ân al-kerîm,"** and, **"A person who attends a place where they are doing the prayer of khatm is like a person who is present while the ghanîma is being divided and distributed. A person who is present at the place where they begin a khatm is like one who makes jihâd. A person who attends both attains the thawâbs for both and thus thwarts the Shaytân."** Sa'd ibn Ebî Waqqâs said: "If a person reads (a passage from the Qur'ân al-kerîm) for a khatm during the day, angels pray for him till evening. If he does so at night, they pray for him till morning."

A hadîth-i sherîf, which exists in **Kunûz-ud deqâiq** and which is transmitted by (Abû Nasr) Daylamî, declares: **"A person who reads the Qur'ân al-kerîm observing the rules of tajwîd is given the thawâb of a martyr."**

As is seen, there is an independent thawâb for reading each of its âyats. The thawâb given to a person who makes a khatm of the

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[1] Suleymân bin Ahmad Tabarânî 'rahmatullâhi ta'âlâ 'alaih', (260, Tabariyya, Damascus – 360 [971 A.D.], the same place,) a profound scholar in the branch of Hadîth. In order to write his celebrated books of hadîth-i-sherîfs, **Kebîr**, **Awsat**, and **Saghîr**, he travelled for thirty-three years. Among the places he visited, Iraq, Hidjaz, Yemen, and Egypt were only a few. Ibni Hibbân Abû Khâtim Muhammad bin Ahmad Temîmî 'rahmatullâhi ta'âlâ 'alaih', (d. 354 [966 A.D.], Semerkand,) was another profound scholar in the science of Hadîth. He was in the Shâfi'î Madhhab. He was the Qâdî of Samarkand.

[2] **Kitâb-ut-Tibyân fî âdâb-i-hamala-t-il-Qur'ân** was written by Imâm Yahyâ bin Sheref Nevevî (or Nawawî) 'rahmatullâhi ta'âlâ 'alaih', (631 [1233 A.D.] – 676 [1277], Damascus.)

entire Qur'ân is much greater. Since such worships as performing namâz, fasting, reading (or reciting) the Qur'ân al-kerîm and dhikring are done only with the body, everyone has to do them themselves. It is not permissible to appoint a deputy and have him do them (on your behalf). For that matter, it is written in **Behjet-ul fatâwâ**: "If a person begins with the Fâtiha and reads the Qur'ân al-kerîm up to the Sûrat-al Fil or the Sûrat-al Ikhlâs and then advises someone to read the remaining few sûras on his behalf, and if the latter reads them, the former person, who has read the Qur'ân al-kerîm from the beginning, has not made a **Khatm**. People who have listened to either one of them have not listened to a khatm being made. And none of them attains the thawâb of a khatm." If those who have read (the parts allotted to them) present the thawâb separately to the souls of the deceased, or if one of them presents the thawâbs for all of them, that is, if he pronounces the prayer of khatm and if those who have read say **Âmîn**, the thawâbs of all the âyats read will be given to the deceased, too. But they will not attain the thawâb promised for a khatm. One khatm must be read by one person only, and the thawâb must be presented by him. It will be permissible and very useful if various people make a khatm of the Qur'ân al-kerîm for a deceased person each of them reading one section (juz) silently and sending the thawâb for the section he has read to the deceased person's soul or one of them presenting the thawâb for all of them to the deceased person, that is, (one of them) pronouncing the prayer of khatm and the others who have read their sections saying, **"Âmîn."** But this will not produce the thawâb for a khatm. One person must read the khatm or one person must send the thawâb for the khatm that he made before. So is the case with reading an âyat of sajda. It is written in **Durr-ul muhktâr**: "If each of several people reads one word of an âyat of sajda, it will not be necessary for those who hear them to perform the sajda of tilâwat. For, the sajda of tilâwat becomes wâjib for the hearers of an âyat of sajda when the (entire) âyat is read (or recited) by (the same) one person." Words read by various people cannot be brought together as if one person had read the whole âyat. For, no one can deputize someone else in reading the Qur'ân al-kerîm.

The author 'rahmatullâhi ta'âlâ 'alaih'[1] of the book **Khulâsat-ul fatâwâ** states: "The Iraqi savants found it unsuitable to read the sûrat-ul Ikhlâs thrice at the end of the khatm of the Qur'ân al-kerîm."

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[1] Tâhir Bukhârî 'rahmatullâhi ta'âlâ 'alaih'.

Ibn 'Âbidîn states: "The deceased recognize those who visit their graves on Fridays. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' used to visit the martyrs on the mount of Uhud and say the prayer, **'Es-salâmu 'alaikum bi-mâ sabartum fa-ni'ma 'uqba-d-dâr.'** The hadjis (Muslim pilgrims) should visit that place early Thursday morning and then perform the early afternoon prayer in **Masjîd-i Nabî**. Hence, it is mandûb to visit graves in far-away places. It is for this reason that the Awliyâ, such as Khalîl-ur Rahmân, Sayyid Ahmad Badawî, are being visited. Imâm-i Ghâzâlî quotes a hadîth-i-sherîf that states: **'Except for three masjids, you do not go to masjids to visit them.'** For, in virtue other masjids are similar to one another. But in closeness to Allâhu ta'âlâ the Awliyâ are unlike one another. Those who visit them get different benefits from each of them. It is written in the fatwâs of Ibn Hajer that you should not cease from doing the **qurbats** even if there are sinners (at such meetings) and that if you see people committing bid'a you should dissuade them. So is the case with attending funerals." Hâfiz Ahmad ibn Teymiyya says that only things permitted by the Sharî'a, such as salawât and the prayer of adhân, can be said for the soul of our Prophet 'sall-Allâhu 'alaihi wa sallam', and that the Qur'ân al-kerîm cannot be read (or recited); but it is written in the book **Fatâwâ-i fiqhiyya** that permission is not necessary for presenting thawâb. In fact, after the death of our Prophet 'sall-Allâhu 'alaihi wa sallam' 'Abdullah ibn 'Umar 'radiy-Allâhu 'anhumâ' performed 'umra for him, though he had not requested it in his last will. Likewise, Ibnul-Muwaffiq performed hajj seventy times for Junayd-i Baghdâdî. Ibni Serrâj performed a khatm more than ten thousand times and performed Qurbân for our Prophet 'sall-Allâhu 'alaihi wa sallam'. It is written in **Fatâwâ-i hadîthiyya** that presents sent by his Umma (Muslims) will cause Rasûlullah 'sall-Allâhu 'alaihi wa sallam' to become upgraded. In fact, he (the Prophet) used to pray, "O my Rabb (Allah)! Increase my knowledge!"

When visiting a grave, it is makrûh to sit or sleep on graves. If you guess that the path going through a cemetery has been made on graves afterwards, do not walk on that path. When you are going to a grave to read the Qur'ân al-kerîm, it is not makrûh to tread or sit on the old graves around it. But you should still not sit on new graves.

Also, it is makrûh to pluck the green weeds or to break the green twigs in a cemetery. It is permissible to pluck the dry grass. It is useful to the deceased and very good to plant flowers and trees

on graves. But a better deed to be performed with this money is to give it as alms to a poor person who (steadily) performs (his five daily prayers of) namâz.

It is stated in the book **Fatâwâ-i Hindiyya**: In the eleventh chapter of the part explaining Kerâhiyyat: "If the tree in a cemetery had been grown before the cemetery was built, it will remain the landowner's property, and he can give the tree and its fruit to anyone he chooses. If a previous private landowner doesn't exist, and this land was allocated as a public cemetery, the trees, fruits, and land are used according to the established customs. If the trees grew up after the cemetery was built, they become the property of the one who sowed them, and he gives the tree and the fruits to the poor as alms. If the trees grew up by themselves (i.e. the one who sowed them is not known) they are distributed by a judge's decision. The judge can order them to be sold and the money received can be spent for the needs of the cemetery, if he decides so. Be it in a city or in a village, it is permissible to pick up and eat fruits that are unlikely to spoil (such as walnuts) and which have dropped from the trees onto the street only if it is known that the owner has given (a general) permission. If the fruits are likely to spoil, and if the owner's prohibition is not known, it is permissible to pick them up and eat them. However, it is not permissible to pick them up and take them home. It is permissible to pick up the fruits or pieces of wood that have been carried by the river. Walnuts picked up from various parts of the street will be halâl even if they reach a marketable amount. If one finds all the walnuts at a certain place, they are considered **luqâta** (unowned property). Trees and fruits on the grounds of a pious foundation's cemetery should be used in accordance with the provisions prescribed by the foundation's deed. If the provisions are not known, the distribution is made according to a judge's decision. There is more information in the books **Hindiyya** and **Qadî-Khân**, at the final parts of the chapters dealing with **luqâta** and **wakf**.

It is mustahab to bury the deceased person during the day, and it is permissible as well to bury it at night.

It is harâm to break its bones, to leave them in the open or to burn them. It hurts the corpse as it would hurt it if it were alive. It is not permissible to break or burn the bones of dhimmîs, of non Muslim countrymen. For, as it is harâm to hurt them when they are alive, it is not permissible to hurt them when they are dead. It is permissible to open the graves of the ahl-i harb. Yet it is still not

permissible to burn their corpses. It is written in the lexicon entitled **Qâmûs-ul-a'lâm**: Disbelievers called Brahmins in India hurl the corpses of their dead into the river named Ganges. The corpses are broken into pieces and eaten by crocodiles. Since this practice causes noxious scents, which in turn spread pestilences such as cholera, (they have developed a new method:) they are cremating the corpses in their temples[1] and throwing the ashes into the river. 'Abdul 'Aziz Dahlawî 'rahmatullâhi ta'âlâ 'alaih' says in the interpretation of the Sûra Abasa that Allâhu ta'âlâ commanded us to bury corpses. Indian disbelievers burn their dead. If the corpse is burned, the body disappears. The link between the body and the soul disappears, and the soul no longer has any relations with the body. When the corpse is buried, the soul remains connected with the body and the grave into which the body is put. Thereby it is known where the soul carries on its communication with the body. The souls of the people who visit a grave get acquainted with the soul of the deceased person, and they benefit from each other. The thawâbs for the âyats and prayers that are recited and the alms that are given reach the soul easily. In this way it will be easy for the people who are alive to benefit from the souls of Awliyâ and sâlih (pious) Muslims." This topic is expatiated on in the next chapter.

It is permissible to weep for the deceased person. However, crying loudly will torment the deceased person.

There are savants who say that it is permissible to inscribe religious statements, principles of îmân, prayers, sûras or to put a piece of paper or something else with such inscriptions on it on the deceased person's head or shroud; but it is not permissible on account of the possibility that they may be smeared with the deceased person's blood or pus. There is no report stating that such inscriptions were written during the time of our Prophet 'sall-Allâhu 'alaihi wa sallam'. As it is not permissible to inscribe (âyats of) the Qur'ân al-kerîm or the Names of Allâhu ta'âlâ on bills or coins, on the mihrâb or walls of a mosque, or on carpets on the floor, likewise it is certainly not permissible to put them in a grave. For, it would be more sacrilegious to put them there. Instead of writing with a pen, it is permissible to imitate the act of writing the Kalima-i tawhîd and the Basmala with your finger on the deceased person's forehead and chest after the washing.

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[1] In special buildings called crematoriums, or crematories.

18 – BENEFITS of VISITING GRAVES

Lâ-madhhabî people[1] say that the deceased can give neither benefit nor harm. It is written on the two hundred and ninety-ninth page of their book entitled **Fath-ul-majîd**: "Allah creates karâmat in the hands of His believing slaves who have taqwâ. Karâmat happens because of their prayers and pious acts." It is written on its five hundredth page: "Benedictions can be asked for from the Prophet or from any pious Believer when he is alive. But benedictions cannot be asked for from the dead. The dead are to be prayed for." It is written on its two hundred and eighth page: "It is shirk (polytheism) to ask for something, e.g. help, from a dead person. A dead person does not give benefits or harm. Nor can he intercede with Allah. He who asks for a dead person's intercession becomes a polytheist." It is written on its four hundred and eighty-fifth page: "You visit graves, and pray for the dead. Today polytheists have turned this the other way round; they are worshipping graves, asking and expecting help from them. When the Messenger of Allah 'sall-Allâhu 'alaihi wa sallam' visited the cemetery of Medina he stood against the graves and said: **'Assalâmu alaikum yâ ahlal-qubûr! May Allah forgive us and you! You have gone before us. We have been left here to wait for our turn.'** And he commanded his Umma to make their visits likewise." The book goes on as follows: "The Salaf-i sâlih (early savants) would visit the Messenger of Allah. After making their salâm, they would turn their back to the grave, and pray toward the qibla. The same method is taught by the imâms of the four Madhhabs." It is written on its two hundred and seventy-second page: "They ask for help from the dead Awliyâ as well as from the living ones. They believe that they (the Awliyâ) can do good or harm in the name of karâmat. Eccentricities like these mean to worship beings other than Allah." It is written on its two hundred and fifty-eighth page: "Wheresoever you say salawât for me, I shall be informed of it. A person who enters the masjid in order to perform the salât is forbidden to approach the Prophet's grave to offer his salâm. None of the Sahâba stood in front of the Prophet's grave to offer their salâm." As is seen, the statements in this book contradict one another and slander the imâms of the four Madhhabs 'rahmatullâhi ta'âlâ 'alaihim ajma'în'.

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[1] People who do not belong to any of the (only) four rightful Madhhabs, i.e. the Madhhabs named Hanafî, Mâlikî, Shâfi'î, and Hanbalî.

These lies of lâ-madhhabî people have been refuted with documentaries and examples by the savants of Ahl-as sunna ‘rahmatullâhi ta’âlâ ’alaihim ajma’în’. Even Âlûsî quotes the hadîth, **“Whoever says salawât by my grave, I shall hear him. And an angel shall inform me of those who say it in far-away places,”** in his book **Ghâliyya.** When anyone who has reason and understanding reads the following passage, which has been derived from the book **Jâmi’u-karâmât-il awliyâ,** he will easily distinguish between the benevolent and the malevolent:

Fakhr-ud-dîn-i Râdî says is his explanation of the Sûrat-ul Kahf: They brought the janâza of Abû Bakr Siddîq near Rasûlullah’s grave, as it had been his last will. They made salâm and said, “Abû Bakr has come to your door, o Rasûlallah.” The door of the mausoleum opened and there came a voice from within: **“Place the beloved with the beloved!”** Bayhakî conveys from Abdullâh-i Ansârî: Thâbit bin Qays was martyred in the battle of Yamâma. As we interred him we heard a voice say, “Muhammadun Rasûlullah wa Abû Bakr-i Siddîq wa ’Umar-i shehîd wa ’Uthmân-i rahîm.” Abû Nu’aym and Ibn Asâkir relate that “A heretic relieved himself on to the grave of Hadrat Hasan. Immediately after that he went mad, and then died.” As Bayhakî and Wâqidî relate, Fâtima-i Huzâ’iyya visited Hadrat Hamza’s grave. When she made salâm she heard a voice saying, “Wa ’alaikum salâm.” When Shaikh Mahmûd-i Kurdî visited Hadrat Hamza’s grave and made salâm he heard a voice from the grave, saying, “Wa ’alaikum salâm. Name your son Hamza!” When he was back home he had a son. So he named him Hamza. It is written in **Usud-ul ghâba**[1]: When the ship with Safîna, Rasûlullah’s slave, on board sank, she got hold of a piece of board, and the waves brought her to the shore. When she was on land she saw a lion, and said to it, “O thou lion! I am Safîna, Rasûlullah’s slave.” In sheepish submission the lion took her up to the road, and then wagged its tail to bid farewell. Ibn Menda conveys from Talha bin ’Ubaydullah: One night Talha visited the grave of ’Abdullah bin ’Amr bin Hirâm. He heard a voice reciting the Qur’ân al-kerîm in the grave. He went to Rasûlullah and told him what had happened. Rasûlullah said, **“He is ’Abdullah. Allâhu ta’âlâ puts the souls of**

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[1] A book of biographies, with biographies of more than seventy-five hundred Sahâbîs in five huge volumes. It was written by ibn Esîr ‘rahmatullâhi ta’âlâ ’alaih’, (555 [1160 A.D.], Jezîra-i-ibn-i-’Umar – 630 [1232], Mousul.)

martyrs in Paradise. Every night their soul and body come together. In the morning they return to Paradise.” Bayhakî conveys from Sa’îd bin Musayyib: Hadrat ’Alî and I went to the cemetery of Medina. He made salâm and said, “Will you let us know in what state you are? Or would you rather we told you our state?” We heard a voice saying, “Wa alaikas salâm, yâ Emîr-al Mu’minîn. You say the events after us.” As Ibn Ebiddunyâ communicates, when hadrat ’Umar went to the cemetery and made salâm, a voice said, “O ’Umar! We have been rewarded for what we did in the world.” Ibni Asâkir relates that Hadrat ’Umar visited a youngster’s grave, made salâm, and said, “There are two Gardens of Paradise for those who fear Allah and avoid committing what is harâm.” A voice from the grave replied, “O ’Umar! My Allah has bestowed upon me both the Paradises.” Sahâwî relates: Someone went to the cemetery to visit the grave of Hadrat ’Amr ibn ’Âs. He asked a person being there if he knew where the grave was. When the latter pointed to the grave with his foot, his foot became paralysed, and he could no longer walk. Bayhakî conveys from Ya’lâ bin Murra: Rasûlullah and Ya’lâ visited a grave. The latter heard sounds of torment from the grave, and wanted to let Rasûlullah know. Rasûlullah said, **“I hear them, too. He is being tormented because he spread gossip and splashed his urine on himself.”**

The forty hadîth-i sherîfs, written by the geat Islamic savant Ahmad bin Suleymân bin Kamâl Pasha ‘rahmatullâhi ’alaih’ in 934 hijri, was translated into Turkish by Sayyid Pîr Muhammad Nitâî ‘rahmatullâhi ’alaih’ in 979. The translation was published in Istanbul in 1316. The eighteenth hadîth-i sherîf of the translation states: **“If you get confused in doing something ask for help from the dead!”** Shaikh-ul islâm Ahmed Efendi explains the hadîth-i sherîf as follows:

It is a strong love that has attached the soul to the body. Man’s death means his soul’s being separated from his body. But the soul’s love does not die after the separation. Long after death, the soul still has the same love and strong attraction towards the body. It is for this reason that it has been prohibited to break the bones of the dead and to tread on graves.

If a person stands by the grave of a powerful, mature and very effective high person and contemplates over that soil and that high person’s body, since that high person’s soul is attached to his body and thereby to that soil, the two souls will meet. The visitor’s soul will receive many benefits from the high person’s soul, thus

becoming graceful and mature. It is on account of this utility that visiting graves has been permitted, although there are other reasons. Imâm-i Fakhruddîn-i Râdî ‘rahmatullâhi ’alaih’ says in his books **Matâlib-i âliyya** and **Zâd-i Ma’âd**: “The visitor’s soul and the soul of the exalted person in the grave are like mirrors. When they meet each other the light in each of them reflects on the other. If the visitor looks at the soil, meditates on how great Allâhu ta’âlâ is, how He kills and enlivens, submits himself to His qadâ and qadar and thus rebukes his nafs, ma’rifa and fayd develop in his soul, and thence they transmigrate to the soul of the exalted person. In return, the knowledges and powerful signs that have come to the exalted person’s soul from the world of spirits and from the Rahmat-i-ilâhî after his death, pass on to the visitor’s soul.”

The author of the book **al A’lâm** says: Prophets’ souls ‘alaihim-us-salâm’ can appear in heavens, wherever they wish, and in their graves. They are not in their graves all the time, nor always away from them. They are connected to their graves and inexplicably attached to their soil. This state is beyond human knowledge. For this reason, it is mustahab to visit them. There is a continuous attachment between each Muslim’s soul and his grave. He recognizes his visitors and acknowledges their salâms. It is for this reason that a hadîth-i-sherîf, which exists in the book **Âqibat** by Hâfiz Abdulhaq-i Ishbîlî ‘rahmatullâhi ta’âlâ ’alaih’, states: **“If a Believer visits the grave of another Believer whom he used to know and makes salâm, the latter will recognize him and acknowledge his salâm.”** Explanation of the eighteenth hadîth-i sherîf has been completed here.

It is written on the twentieth page of the second -1324 hijri- edition of the book **Râbita-i sherîfa**:[1] If a person visiting the grave of a great person does râbita to him, that is, if he repels all worldly thoughts from his heart and, supposing the great person’s soul to be a nûr that cannot be comprehended by the sense organs, keeps him in his heart, something from that soul will begin to flow into his heart. He must keep this nûr in his heart until one of the fayds or hâls of the great person begins to develop in him. For, the souls of Awliyâ are sources of fayd. A person who places such a source in his heart will certainly attain its fayd, blessings and occult benefits; his soul will consolidate and mature. When you visit the grave, you first make salâm. You stand on the right hand side, that

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[1] By Sayyid Abdulhakîm Efendi ‘rahmatullâhi ta’âlâ ’alaih’ (1281 [1865]-1362 [1943], Ankara.

is, on the qibla side, of the grave, nearer the feet (than the head) side. You imagine his appearance like when you used to know him. You say the A'ûdhu, the Basmala, the Sûrat-ul Fâtiha, and then the Sûrat-ul Ikhlâs eleven times, and present the thawâb to our Prophet's soul, to the souls of all Prophets 'alaihim-us-salâm', the Sahâba, the Awliyâ 'alaihim-ur-ridwân', and to the soul of the great person (whom you are visiting). Then you sit down, keep his soul in your heart, and stay there until something stirs in your heart. If you know how to receive, if that person is a mature Walî endowed with giving, and if you wait there observing its conditions, you will certainly obtain something. Its conditions are to believe that the great person will recognize you, hear and acknowledge your salâm, that his soul is mature and perfect, that his soul is not confined to time or place, that he will give you fayd wheresoever you remember him, as if he were at the place where you remember him, that Allâhu ta'âlâ sends His fayd and spiritual nourishment through his soul. A person who wants grapes goes to a vineyard and picks them from the vines. He does not go to a plum tree. He who wants water goes to a spring or to a fountain, not to a tree or stove. He who wants wheat tills his field, sows the grains, and harvests the crops. He who wants children gets married. An invalid person who needs medicine goes to a doctor and thereafter to a drugstore. He does not go to a grocery shop or to a lawyer's office. And he who wants to nourish his heart and have his soul purged resorts to the hearts and souls of the Awliyâ 'qaddas-Allâhu ta'âlâ asrârahum-ul-'azîz.' Allâhu ta'âlâ sends these blessings through the hearts of the Awliyâ. Allâhu ta'âlâ, alone, creates and sends everything. However, it is His Divine Habit to send everything through some means. He who wishes to attain His blessing must follow His law of causation, find and learn His means, and hold fast to His means. To be unwilling to search for and learn the means is to vioate His divine law and to disobey Him. To learn scientific knowledge is to obey His law and to learn the means. To receive fayd from a grave, it is necessary to revere the exalted person (in that grave) as if he were alive and not to tread on the grave. If the exalted person (in the grave) is a murshîd-i kâmil, the nisbat in your heart will shape up rather late, yet it will remain there a long time. If he is a Walî but not a murshîd, the fayd and nisbat arising (in your heart) will be acute and volatile. Those who are unaware of these hâls will disbelieve the above-quoted hadîth-i sherîf and will call it Mawdû'. The savants of Usûl-i hadîth call a hadîth-i sherîf **Mawdû'** when it does

not fulfil the conditions which they have put for a hadîth to be sahîh.[1] In other words, they say, “It is not sahîh according to my ijtihâd.” They do not say that it is not a hadîth-i sherîf.

When an exalted person who has attained the degree of receiving fayd from the blessed soul of our Master, Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’, turns his attention towards him, no matter where he himself is, the blessed soul of our Master, Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ will give him fayd from his blessed grave in Medina-i munawwara. Likewise, any talented and capable person will get a similar benefit from the souls of the Awliyâ. It is written in the fortieth page: Shamsaddîn ibn-ul Qayyim-i Jawziyya, a savant in the Hanbalî Madhhab, says in his book **Kitâb-ur-rûh**: “The human soul has also other states different from those when it is in the body. After a Believer dies, his soul stays in a grade called Rafîq-i a’lâ, being still connected with the body at the same time. If someone makes salâm to the body in the grave, the soul in the Rafîq-i a’lâ will acknowledge his salâm.” This statement of Ibn-ul Qayyim’s would suffice for refuting lâ-madhhabî people. For, they call him **’Allâma** in their book **Fath-ul majîd** and adduce his articles as authentic documents. Also, Imâm-i Suyûtî writes like Ibn-ul Qayyim in his book **Kitâb-ul munjalî.** The fact that a soul will hear and reply is written in the Arabic book **Minhât-ul wahbiyya fî-radd-il wahhâbiyya**, which has been reprinted a number of times by Hakîkat Kitâbevi in Istanbul, and in its (Turkish and English) translations, as well as in the book **Kıyâmet ve Âhiret** (The Rising and the Hereafter), in its chapter entitled **Müslimâna Nasîhat** (Advice for the Muslim).[2] Scholars say that the Awliyâ have some functional capacity after their death. Shaikh Khalîl, the author of the book entitled **Mukhtasar** and one of the savants of Mâlikî, says: “Allâhu ta’âlâ gives such power to the souls of the Awliyâ as they can assume various guises. Their bodies do not leave their graves. But their souls can appear in guises.”

Alâuddawla Ahmad-i Samnânî[3] ‘rahmatullâhi ta’âlâ ’alaih’ was asked: “A body in the grave is without a soul, so it does not

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[1] Please see chapters five and six in the second fascicle of **Endless Bliss** for detailed information about hadîths; and the book **Sunnî Path** will give you sufficient information about the branches of knowledge in Islam.

[2] Please see a list of our publications appended to this book.

[3] Alâuddawla Ahmad-i-Samnânî ‘rahmatullâhi ta’âlâ ’alaih’, (659 [1260]-736 [1335], Sôfî Âbâd,) was the son of the Pâdishâh (Sultan) of Samnân, N. Iran. He dedicated himself to Tasawwuf and attained perfection in the path termed Kubrawiyya.

hear. And the soul does not have a special place; it can be present at any place. Is it necessary to go and visit the graves of the Awliyâ, then? No matter where you are, if you turn your attention towards a Walî's soul, will not the soul be present there?"

His answer was that going to the graves has many benefits: A person who goes to visit a Walî will think of him all the time. Each step he takes will add to his tawajjuh (turning, inclination) towards him. By the time he gets near the grave and sees his soil, his thoughts will be preoccupied only with him. This will increase his tawajjuh all the more. The more his tawajjuh increases, the more benefits will he receive. It is true that there is no hindrance or limit for a soul. All places are the same for it. But the body with which it lived for years in the world and with which it will stay eternally in the Hereafter, is there, in that soil. Therefore, the soul's frequenting, inclination to, relation with and attachment to that soil will be more than in the case of other places. Alâuddawla said: One day I entered the room where Junayd-i Baghdâdî 'qaddas-Allâhu ta'âlâ sirrah ul-'azîz' had subjected himself to mortifications. There, I tasted so many dhawqs. Then I visited Junayd's grave, but I could not find the same dhawqs there. When I asked my master the reason for it he said, "Were those dhawqs because of Junayd?" And when my answer was positive, he said, "Since dhawqs arise from a place where he stayed a few days during his lifetime, there must be many more dhawqs when you go near his body, with which he spent many years together. Perhaps when you were by his grave you saw other things, which might have decreased your tawajjuh towards him." If a person turns his tawajjuh to the soul of Rasûlullah 'sall-Allâhu 'alaihi wa sallam' when he is in his own country, he will get some benefits. But if he goes to Medina-i munawwara, Rasûlullah's soul will be aware of his journey and of the hardships he will be suffering on the way. When he gets there and sees Rasûlullah's Rawda-i pâk, his tawajjuh will become perfect. He will get so many benefits that the benefits he received when he was in his country will prove to be nothing in comparison with them. These facts which we are stating now the Awliyâ-i-kirâm perceive with their hearts.

Celâleddîn-i Rûmî[1] 'quddisa sirruh' said on his deathbed. "Don't be sorry when I am dead! Be with me and think of me wherever you are! I shall come to your rescue and help you. My

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[1] Celâleddîn Muhammad Rûmî 'rahmatullâhi ta'âlâ 'aleyh' (604 [1207], Belikh, Syria - 672 [1273], Konya, Turkey) was a great Walî in the path of Tasawwuf termed Qâdirî.

soul has two kinds of attachments in this world; the first one is its attachment to my body, and the second is its attachment to you. When my soul leaves my body by the grace of Allâhu ta'âlâ, its attachment to the body will also extend to you.

Abdullah-i Dahlawî,[1] 'qaddas-Allâhu ta'âlâ sirrahul'azîz', one of the greatest Awliyâ, says in the eighth letter of his book **Maktubât**: "Strive to increase the nisbat [attachment] in your heart! By doing much dhikr, that is, repeating (with your heart) the Name of Allah and the Kalima-i tehlîl very often, and sometimes by saying the salawât or reading the Qur'ân al-kerîm, try to approach Allâhu ta'âlâ! If you feel any languor during these efforts, turn your tawwajuh to this faqîr's soul [the great savant means himself]! Or, visit Mirzâ Mazhar-i-Jân-i Jânân's grave![2] Paying tawajjuh to him causes great progress. The benefits to be received from him will be many more than those to be received from a thousand living ones. Also, meditate over Gaws-uth thaqalayn Abdulqâdir Geilânî[3] and Bahâeddîn-i Bukhârî!"[4] It is written in detail in the book **at-Tawassul-u bin-Nabî wa bi-s-sâlihîn**,[5]" and in Mawlânâ Hamdullah Sahâranpûrî's book **al-Basâir li-munkirit-tawassul-i bi-ahl-il-maqâbir** that it is permissible to visit the graves of sâlih (pious) Muslims and to pray through them. These two books were reproduced in Arabic in Istanbul in 1395 [1975].

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[1] Ghulâm-i-'Alî Abdullah Dahlawî 'rahmatullâhi ta'âlâ 'alaih' (1158 [1745], Punjab, India - 1240 [1824], Delhi), a great Walî and an expert in Tasawwuf.

[2] Shams-ud-dîn Habîbullah Mazhar-i-Jân-i-Jânân 'rahmatullâhi ta'âlâ 'alaih' (1111 [1698] - 1195 [1781], Delhi, India) was a great Walî and an important link in the chain of Awliyâ termed Silsila-i-aliyya. He was the educater and master of Sayyid Abdullah Dahlawî, (above).

[3] Muhyiddîn Abû Muhammad bin Abû Sâlih bin Mûsâ Jengî Dost Abdulqâdîr-i-Geilânî 'rahmatullâh ta'âlâ 'alaih' (471 [1078], Geilan, Iran - 561 [1166], Baghdâd, Iraq) a great Walî and a great expert in Tasawwuf, a mujtahid in the Islamic branches of knowledge termed Fiqh and Hadîth. Through a paternal chain of ancestry, he was related to the Messenger of Allah 'sall-Allâhu ta'âlâ 'alaihi wa sallam' both through hadrat Hasan 'radiy-Allâhu 'anh' and through Huseyn 'radiy-Allâhu 'anh', the two blessed grandsons of the Messenger of Allah 'sall-Allâhu ta'âlâ 'alaihi wa sallam'. His blessed mother, Fâtima binti Abû Abdullah, was again one of the granddaughters of hadrat Huseyn 'radiy-Allâhu ta'âlâ 'anh', Rasûlullah's younger grandson.

[4] Bahâeddîn Muhammad bin Muhammad Bukhârî 'rahmatullâhi ta'âlâ 'alaih' (718 [1318] - 791 [1389], Qasr-i-Ârifân, Bukhâra) was a great Walî and a great scholar in Tasawwuf.

[5] An abridged version of the book entitled **Barâat-ul-esh'ariyyîn**, which in turn was written by Abû Hâmid bin Merzûqî 'rahmatullâhi ta'âlâ 'alaih', a Damascene scholar.

19 – A LETTER OF CONDOLENCE BY RASÛLULLAH ‘sall-Allâhu ’alaihi wasallam’

This letter was dictated by Allâhu ta’âlâ’s Prophet, Muhammad ‘’alaihissalâm’ for Mu’âz bin Jabal ‘radiy-Allâhu ta’âlâ ’anh’.

May Allâhu ta’âlâ bless you with salvation!

I offer up my hamd to Him. He, alone, can do good or harm to anybody. Unless He wills, no one can do good or harm to anyone.

May Allâhu ta’âlâ give you plenty of thawâb. May He bless you with patience! May He grace you with gratitude for His blessings!

We must know for certain that our own existence, our property and wealth, our women and children are samples of Allah’s innumerous blessings, sweet and useful gifts. He has not given us these blessings for eternal retention, but has entrusted them to us so that we may use them until He takes them back. We utilize them for a certain duration of time. When the time comes He will withdraw all of them. Allâhu ta’âlâ has commanded us to thank Him when He pleases us by being generous, and to be patient when we feel sorrow when the time comes for Him to take back His gifts. That son of yours was one of the sweet, useful blessings of Allâhu ta’âlâ. He had entrusted him to you on condition that He would take him back. Through your son He had blessed you. He had pleased and delighted you so as to make others envy you. Now, taking him back, He will give you plenty of thawâb and goodness, and, by His mercy, He will bless you with making progress and improvement along the right way. To attain this mercy and blessing you must be patient. You must tolerate what He has done! If you become angry, cry and yell, you will not attain the thawâb and mercy, and will regret in the end. Know it very well that crying and lamenting will not ward off a catastrophe. Nor will it do away with the sorrow! You will undergo whatsoever is in your qadar (fate). You must be patient and not become angry with what has already happened.

May Allâhu ta’âlâ bless you all with salvation! Âmîn.

Through a cemetery I was passing,
“Who,” I said to myself, “lieth here?”
Scattering honour about themselves,
So many a hero lieth here.

Some of them young; some of them old;
Some of them ministers; some, generals;
Some of them lecturers; some, professors;
Many a rich notable lieth here.

With their gold-like, auburn hair,
Washed and trimmed daily;
And dresses out of fashion overnight,
Many a lovely bride lieth here.

Finishing a series of schools,
Studying medicine for years,
Curing myriads of patients,
Many a good doctor lieth here.

Heroes who fell upon enemy,
To keep îmân from their villainy,
To spread Name of Allah and Nabî;
Many a champion lieth here.

20 – FIRST VOLUME, 104th. LETTER

This letter, written to the Qâdîs of Perkana, offers condolence.

The sorrow felt for the death of the merhûm[1] Hadrat (exalted person) is very severe, very poignant; but the slave has no other way than acquiesce in the doings of his owner. Man is not created for a constant abode in this world. We are created to work in the world. We must work! There is no reason for apprehension for a person who has worked, earned, and then died. In fact, such a death means to come into great fortune. Death is like a bridge; it brings lovers together. Death is not a disaster. But it is a disaster not to know what you will encounter after death. We must help the deceased and rescue them by saying prayers and istighfâr for them, by giving alms for them. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' declared: **"The state of a deceased person in the grave is like that of a person who has fallen into the sea and is crying for help. As a person who is about to drown awaits a savior, so the deceased person yearns for the arrival of prayers from his parents, brothers and friends. Any prayer coming to him delights him more than if the whole world were given to him. Through the prayers of the living, Allâhu ta'âlâ gives the deceased rahmats like mountains. The present to be given to the deceased by the living is to say prayers and istighfâr for them."**

[**Du'â** (prayer) means to ask. It is like a hungry man's asking for food when he has an appetite. It is very useful to do khatm-i tehlîl for a person who has died with îmân, that is, to say the kalima-i tawhîd seventy thousand times and present the thawâb to his soul. But we are in such a time that very few people die with îmân. It is written in **Maqâmât-i Mazhâriyya**: "A hadîth-i sherîf declares: **'If a person says the Kalima-i tawhîd seventy thousand times for himself or for someone else, his** (and/or the other person's) **sins will be forgiven.'** Hadrat Mazhar-i Jân-i Jânân 'qaddas-Allâhu sirrah ul'azîz' was sitting near a prostitute's grave, when he turned his tawajjuh to the grave, [that is, concentrated upon it without thinking of anything else]. He said, 'There is Hell fire in this grave. I doubt if the woman has îmân. I shall present the thawâb of **Khatm-i tehlîl** to her soul. She will be forgiven if she has îmân.' After presenting the thawâb of khatm-i tehlîl, he said: 'Al-hamdulillâh, she has îmân. The Kalima-i tayyiba has taken effect, and she has been forgiven." It is stated in **Manâhij-ul-'ibâd**: "The

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[1] Deceased and admitted to Allah's mercy.

Kalima-i-tawhîd is said seventy thousand times by one person or by a number of people.” It is stated in the hundred and twentieth letter of **Makâtib-i-sherîfa**: “The Khatm-i-tehlîl is very useful to living people, too.” It is written in a book of fatwâ, which occupies the number 520 of the Ibrâhîm Efendi ‘rahmatullâhi ’alaih’ section in the library of Süleymâniye: “Prayers must be said silently. It is ignorance (for an imâm) to say prayers together with the jamâ’at after the Friday prayer. It is bid’at for a preacher to say prayers aloud (and have all the listeners say âmîn) after his preaching is over. No report has come from the Salaf-i sâlihîn (that such things must be done). Such practices have been assimilated from Jews and Christians.”]

“It’s time to migrate,” says death, yet life will not hear;
Limbs are all tremulous, yet the head will not hear.

A stone falls from house of life as each day passes by;
The soul lies numb, its house in ruins, it will not hear.

My heart wants to stay, my friend to take body away;
Helpless as I am, alas, Loqman will not care!

Capital of life is gone, for trade I have done none;
Now I have sense, yet the ship’s left, captain will not care.

I have no provisions; the road, beset with visions!
My sighs and laments rogues and devils will not hear.

The wayfarer has to go on, hard as it may be;
Wake up, o, supplicant; doubtless, darling’s aware!

21 – ISQÂT FOR THE DECEASED

It is written in **Nûr-ul îdhâh** and in **Tahtâwî**'s annotation to it, at the end of the namâz of qadâ in **Halabî** and **Durr-ul mukhtâr**, in **Multaqa**, in **Durr-ul muntaqâ**, in **Wikâya**, in **Durer**, in **Jawhara**, at the end of Qâdi-Zâda's commentary to **Birgivî vasiyyetnâmesi**, as well as in other valuable books, that it is necessary according to the Hanafî Madhhab to perform isqât and dawr for a deceased person. For example, it is written in the annotation by **Tahtâwî**: "There are nass (âyats and hadîths with clear meanings) about isqât (absolution) of the (sin for the) omitted fastings by giving fidya. All savants unanimously declare that, because the namâz is more important than fasting, as with fasting, isqât is to be performed for the prayers of namâz that a person missed for some reason justified by Islam and which he could not make qadâ of[1] later because he took to his deathbed though he wished to perform them. A person who says that isqât cannot be performed for namâz must be ignorant. For, he contradicts the consensus of savants. A hadîth-i sherîf declares: **'A person cannot fast or perform namâz on behalf of another person. But he can feed the poor for his** (the other person's) **fasting or namâz.'** " As we have heard recently, some people, who cannot realize the superiorities of the savants of Ahl-as sunna and who suppose that our imâms of Madhhabs express their personal illusions, as they themselves do, say, "There is no isqât or dawr in Islam. Isqât resembles Christians' redemption." Such words of theirs expose them to risk. For, our Prophet 'sall-Allâhu 'alaihi wa sallam' declared: **"My Umma do not come together in deviation."** And **"Something which Believers consider beautiful is beautiful according to Allâhu ta'âlâ, too."** These hadîth-i sherîfs are written on the 94th page of the book **Berîqa,** and they prove that to make dawr is certainly true in Islam. He who does not believe in dawr will have denied the hadîth-i sherîfs quoted above. It is written at the end of the namâz of Witr in **Ibn 'Âbidîn**: "A person who denies the knowledge of ijmâ, i.e. the essential religious knowledge which is known even by the ignorant, becomes a kâfir (unbeliever)." İjmâ' means the unanimity of (the profoundly learned Islamic scholars called) mujtahids. How can isqât ever be likened to redemption? Under the pretext of redemption, priests are rooking the people. But in Islam men of religion cannot perform isqât. Isqât can be

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[1] To make qadâ of any religious precept means to perform it later, if one has failed to perform it within its prescribed time.

performed only by the deceased person's wasî or, if he died intestate, by the inheritor(s), and the money is given not to men of religion but to the poor.

Today there is next to no place where the service of isqât and dawr is being performed suitably with Islam. If the deniers of isqât said that "the isqâts and dawrs being performed today are incompatible with Islam," instead of being opposed to isqât and dawr, they would be doing well, and we would be supporting them; by saying so, they would both be safe against a great danger and be serving Islam. Ibn 'Âbidîn explains how to perform isqât and dawr as prescribed by Islam at the end of the subject about the namâz of qadâ.

If a person has fâita salât, [that is, prayers of salât that he left to qadâ because he failed to perform them for some 'udhr], and if he has still not performed them even with signs though he could have, it is wâjib for him to enjoin in his will that the isqât should be done for their kaffârat, when he is about to die. But he does not have to enjoin the isqât if he has not had the power to perform them. Likewise, if a musâfir or a sick person who did not fast in Ramadân-i sherîf dies before having time to make qadâ, he does not have to enjoin the isqât. Allâhu ta'âlâ will accept the 'udhrs of such people. [The isqât for a sick person's kaffârat is performed by his walî after his death. It is not performed before he dies. It is not permissible for a living person to have the isqât performed for himself. It is stated in the Shâfi'î book **Anwâr**: "It is not wâjib according to the Shâfi'î Madhhab to give fidya for the prayers of namâz omitted by a dead Muslim. The fidya given, if any, will not stand for isqât." Imâm-i-Birgivî 'rahmatullâhi ta'âlâ 'alaih', a Hanafî scholar, states in his book **Jilâ-ul qulûb**: If a person owes debts to Allâhu ta'âlâ or to people it is wâjib for him to say his will in the presence of two witnesses or to read to them what he has written. And (to say or write) a will is mustahab for a person without debts".

For the isqât of kaffârat, the deceased person's walî, that is, the person to whom he has instructed to distribute his property to the appropriate places, or his heir, gives alms as much as the fitra amount, that is, half a sâ' [five hundred and twenty dirhams or seventeen hundred and fifty grams] of wheat for each prayer of salât and the same amount for each salât of witr and the same amount for a day's fasting for which qadâ is necessary, as fidya to the poor [or to their deputy], from the third part of this property.

If the deceased person did not enjoin in his will that the isqât of

kaffârat be done, his walî does not have to perform the isqât of kaffârat in the Hanafî Madhhab. It is stated in **Naf'ul-anâm fî isqât-is-salâti wa-s-siyâm**[1], a book in the Shâfi'î Madhhab: "Bâjûrî[2] states in his annotation to Ibni Qâsim's commentary to Abû Shûjâ: Fidya is not paid for the prayers of namâz missed by the deceased person. There is yet another report saying that it is paid. It will be good to do isqât for them by imitating the Hanafî Madhhab. According to an earlier report in the Shafi'î Madhhab, the deceased person's walî (guardian) makes qadâ of the prayers of namâz and fasts missed by the deceased person." In all (four) Madhhabs, the guardian has to pay the deceased person's debts to creatures (people) from the property he has left behind even if the deceased did not enjoin it in his last request. In fact, the creditors may appropriate their dues without a law court decision if they can obtain access to the property. If he enjoined the fidya for the fasts he had left to qadâ, i.e. that they must be paid by giving property, it is wâjib to execute it. For, it is a commandment of Islam. If the deceased person did not enjoin it, his inheritor can perform it with his own property. If he enjoined (the payment for) namâz (which he had missed), it is permissible, but not wâjib, to pay fidya for it. Even if these last two performances are not accepted (by Allâhu ta'âlâ), they will at least produce thawâb of alms, which in turn will help forgiveness for the deceased person's sins. Hadrat Imâm-i-Muhammad also said so. It is written in **Majma'ul-anhur**: "If a person, being deceived by his nafs and the devil, did not perform his prayers of salât and then, towards the end of his life, became penitent [and began to perform his daily prayers of salât and make qadâ of the past ones], it is written in **Mustasfâ**[3] that it is permissible for this person to enjoin the isqât for his prayers of salât which he has not been able to make qadâ of."

It is written in **Jilâ'ul-qulûb**: "Other's rights include debts to be paid, dues resulting from practices such as safekeeping, extortion, theft, employment and purchase, physical rights proceeding from

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[1] It was written by Khalîl Sihrîdî Shâfi'î 'rahmatullâhi ta'âlâ 'alaih'.

[2] Bâjûrî Ibrâhîm was a professor in Jâmi'ul az-har. He passed away in 1276 [A.D. 1859].

[3] A commentary written by Abû-l-berekât Hâfiz-ud-dîn 'Abdullah bin Ahmad Nasafî 'rahmatullâhi ta'âlâ 'alaih', (d. 710 [1310 A.D.], Baghdâd,) to the book entitled **Manzûma**, which in turn was written by Najm-ud-dîn Abû Hafs 'Umar bin Muhammad Nasafî 'rahmatullâhi ta'âlâ 'alaih', (461 [1068 A.D.], Nasaf, Fâris, Iran – 537 [1143 A.D.], Samarkand.)

acts of violation such as battery, injury and unjust employment, and spiritual rights ensuing from acts of wrongdoing such as blackguardism, mockery, backbiting, and slander.

If one-third of the property of the deceased person who has made a will suffices for the isqât, the guardian has to give the fidya out of that property. It is written in **Fath-ul-Qadîr** that, if it does not suffice, the heir can donate the deficit of the one-third. Likewise, if the deceased person enjoined in his will the performance of the hajj which was fard for him, it is not acceptable for his heir or someone else to present the money for hajj. If he does not enjoin it before dying and if his heir performs the isqât or the hajj with his own money, his debt of hajj will have been paid. Some (savants) say that these things are not permissible with the money of someone other than the heir. But the authors 'rahmatullâhi ta'âlâ 'alaihim ajma'în' of the books **Durr-ul mukhtâr, Marâqil-falâh** and **Jilâ-ul qulûb** said that it is permissible.

Only in the Hanafî Madhhab; in lieu of wheat, flour, one sâ' of barley, dates or grapes can be calculated and given for the isqât of kaffârat. [For, these things are more valuable than wheat, and they are more useful to the poor.] Instead of any of these, gold or silver of the same value can be given. It is permissible for (people belonging to one of) the other three Madhhabs to imitate the Hanafî Madhhab. [The isqât cannot be performed with paper money.] It is not necessary to give fidya for sajda-i tilâwat.

If the money to be given for fidya exceeds one-third the property, the walî cannot spend more than the one-third without the inheritors' consent. It is written in the book **Qinya-t-ul-fatâwâ** that if the deceased had debts as well, it is not permissible to carry out his will even if his creditors give approval for the execution of the will. For, Islam commands that the debts must be paid first. Paying the debt cannot be postponed with the creditor's consent. In case it is not known at what age the person who enjoined the isqât of all his prayers of namâz died, his will is acceptable when one-third of the property he has left does not suffice for the isqât of his prayers of namâz. If one-third of the property equals and even exceeds (the amount to be spent for) the isqât, his will is not acceptable; it becomes bâtil. For, when the one-third does not suffice for the isqât, the number of the prayers of namâz for which the isqât has been performed with the one-third will be known, and so his will will be sahîh (valid) for those prayers of namâz; and (the part of) his will concerning his remaining prayers of namâz will become laghw, that is, empty words. When the one-third is in

excess, his will will become invalid because his lifetime, and hence the number of the prayers is not known. Qâdi-Zâda says in his commentary to **Birgivî**:

To avoid situations called karâhat and fesâd, i.e. lest there should be any risk of a wrong or invalid practice, if the deceased person did not have any property, or if one-third of the property he left behind does not suffice for the isqât, or if he did not make a will and the guardian (walî) wants to perform the isqât with his own property, he will perform **dawr**.[1] But the guardian does not have to perform dawr. To perform dawr, the guardian borrows as much gold or silver -gold coins, gold five lira pieces, bracelets, rings, valid silver coins- as will suffice for a month's or a year's isqât. The years of debt are calculated by subtracting twelve years -if the deceased person is a man -or nine years –if the deceased person is a woman- from a lifetime. When a girl is nine years old, and when a boy is twelve years old, they have reached the age of discretion and puberty. A person at this age is called a **mukallaf** (liable, responsible person). [A girl who is over nine years old and a boy who is over twelve are said to have become **'âqil-bâligh** (discreet and pubescent). These children are **mukallaf**s, which means that they have to adapt themselves to Islam. A person who willingly and knowingly does or says something that is harâm to do or to say according to all four Madhhabs, becomes an unbeliever. People who do so will not become unbelievers, however, if they have to do so as a result of oppression, indulgence, ineluctabilities involved in making a life, unwillingly and regretfully. Yet they will still be tormented (in the Hereafter) for having committed harâms, unless they (repent and) make tawba. Lack of information concerning halâls and harâms is not an 'udhr (acceptable excuse) in a country whose people have the freedom to do what they want. Their sportsmen with exposed knees are safe against becoming unbelievers, owing to the Hanbalî Madhhab. Girls in high schools and universities will be absolved from the sin of committing harâms when they make tawba after graduation. So is the case with female civil servants. A person who denies a harâm, (i.e. who says or believes that a certain word or act is not harâm although it is harâm,) becomes an unbeliever. A person who continues to commit a certain harâm or harâms is in the danger of being (or becoming) an unbeliever.] **Ten and a half kilograms of wheat is to be given for one day's six prayers of namâz and thirty-eight**

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[1] Its lexical meaning is 'circulation'.

hundred kilograms for a solar year. For example, when one kilogram of wheat cost 1.80 liras, for the isqât of a year's namâz sixty-eight hundred and ninety-eight, which can be rounded off to sixty-nine hundred, liras would be required. Since one gold coin [which weighs seven grams and twenty centigrams], costs a hundred and twenty liras when one kilogram of wheat costs 1.80 liras, which means that one kilogram of wheat equals one-tenth [1/9.26] gram of gold in value, the isqât of a month's (debt of) namâz requires four plus three quarters [4.75] gold coins, and consequently **the isqât of a year's namâz requires fifty-seven and a half, or, circumspectly, sixty, gold coins.** The deceased person's guardian borrows five gold coins, or bracelets with the same weight, and finds one or more, e.g. four, poor people who are not fond of worldly things and who know and love their religion. [These people must be poor enough to be exempted from the liability of paying the fitra and to be among those who can be paid zakât. If they are not (so) poor, the isqât will not be acceptable.] The deceased person's guardian, that is, the person to whom he has made his will, or one of his inheritors or the person deputizing one of his inheritors gives the five gold coins to the first poor person, with the intention of alms, saying, "I give you these five golds as compensation for the isqât-i salât of the deceased .... Bey." When giving the alms to the poor person it is permissible to say, "I give you these as a present." Then the poor person, (taking possession of the gold coins), says, "I accept and take them, and I present them to you," and gives them to the inheritor or to the inheritor's deputy, who takes possession of them. Thus, one dawr (circulation; rotation) will be completed by giving (the golds) to one poor person four times or to each of the four poor people once and taking them back. With one dawr (the deceased person) will have been absolved of twenty gold coins of kaffârat of salât. If the deceased person was a man and was sixty years old, 48x60=2880 gold coins will be necessary for forty-eight years' salât. So, the dawr is to be done 2880:20=144 times. If the number of gold coins is ten, 72 dawrs will be done, and if the number of gold coins is twenty, thirty-six dawrs will be completed.

If the number of poor people is ten and the number of gold coins is ten, too, twenty-nine dawrs will be completed for the isqât of kaffârat for forty-eight years' debt of salât.

The number of the years during which he (the deceased person) **did not perform namâz x the number of gold coins for one year=the number of the poor x the number of gold coins**

circulating x the number of dawrs. This applied to the example we have given:

48x60=4x5x144=4x10x72=4x20x36=10x10x29

As is seen, for determining the number of the dawrs (to be done) for the isqât of salât, **the number of the gold coins** (required) **for one year will be multiplied by the number of the years of debt of salât. Then the number of the gold coins circulating will be multiplied by the number of the poor individuals. The result of the first multiplication will be divided by the second.** The result of the division will indicate the number of dawrs. Wheat's and gold's equivalent in paper money vary at approximately the same rate in course of time. In other words, the value of gold and the value of wheat always go up and down correspondingly. For this reason, as the amount of wheat for a year's isqât does not change, so the number of gold coins for one year's isqât, i.e. sixty gold coins, as we have calculated in accordance to the Hanafî Madhhab, remains almost the same, when it is kept in tandem with the world's market prices and no abrupt rises take place. Therefore, in the calculation of isqât the circumspectly accepted formula is, except for some extraordinary situations:

Five gold coins for the isqât of a month's salât.
One gold coin for the isqât of a month's fasting in Ramadân.

The number of gold coins to be circulated and the number of circulations will be calculated accordingly.

If no gold coins are available, the guardian borrows some gold articles such as bracelets or rings from a woman he knows. Weighing these, he puts an amount equal to the (number of years during which the deceased person omitted his prayers of namâz x 7.2 grams) in a handkerchief. The handkerchief now contains as many gold coins as the number of years during which the dead person omitted his namâz. When number sixty is divided by the number of the poor Muslims taking part in the dawr, the result shows the number of dawrs (circulations) to be performed. If sufficient amount of gold pieces is not available, half the amount in the former case is weighed. In this case the number of dawrs will be twice the number that would be performed in the former case. According to our example, six dawrs will be performed with ten poor people if we have 48x7.2=350 grams of gold, and the number of dawrs will be thirty if the amount of gold possessed weighs 70 grams. When the process of dawr is over, the poor Muslim occupying the final position gives the gold as a gift to the guardian,

who in his turn gives them back to the person he has borrowed them from. If the guardian has gold coins, the dawrs are performed with as many gold coins as the number of years during which the deceased person did not perform namâz. When the number 60 is divided by the number of the poor people sitting for the dawr, the result is the number of dawrs to be performed. If the gold coins are several times fewer than the number of years of debt of namâz, the number of dawrs should be as many more. According to the example given above, if you have 48 gold coins, you will make 60 dawrs with one poor person, 15 dawrs with four poor people, and 6 dawrs with ten poor people. If the number of gold coins is 10, the number of years will be supposed to be 50 instead of 48 and 75 dawrs will be performed with four poor people. If the poor people are ten, 30 dawrs will be performed.

After the isqât for the namâz is finished, for the isqât of the forty-eight years' fasts omitted, that is, for the ones that must be made qadâ of, he (the walî or the inheritor or his deputy) makes three dawrs with five gold coins and four poor people. For, the isqât for the kaffârat of a year's (thirty days') fasting requires fifty-two-and-a-half kilograms of wheat, or 5.25 grams of gold, i.e. 0.73 gold coins. Hence, in the Hanafî Madhhab **one gold coin absolves the kaffârat of a year's fasting**; and hence, it is necessary to give forty-eight gold coins for forty-eight years. Completing one dawr with five gold coins and four poor people means having given twenty gold coins. After the performance of the isqât of the fasts requiring qadâ, a few dawrs must be done first for zakât and then for the qurbân, then for the sadaqa-i-fitr and then for nazr and then for rights of other people, (i.e. debts possibly owed to other people,) whose inheritors are not known.

In the Madhhabs of Mâlikî and Shâfi'î, the report saying that fidya is made for the (omitted) namâz is observed by giving the fidya for five prayers of namâz for each day, since the namâz called Witr is a sunna. It is written in (the books) **al-Anwâr** and **Naf'ul-anâm** that according to these two Madhhabs one mud' of wheat is to be given as the fidya of one prayer of namâz and one fasting. Since one mud' is 173.3 dirhams, the fidya for a day's five prayers of namâz is 2.1 kilograms of wheat, which makes 63 kilograms of wheat, or 0.875 gold coins, for a month, and 705 kgr. of wheat, or 10.5 gold coins, for a year, while the fidya for a month's fast is 5.2 kilograms of wheat or 0.07 pieces of gold coins. For imitating the Hanafî Madhhab, people who are in one of the Madhhabs of Mâlikî and Shâfi'î should calculate the fidya for a month's prayers

of namâz as five gold coins and a month’s fast as one gold coin.

Doing the kaffârat of one oath requires ten poor people in one day, and the kaffârat of one day’s fast that was broken without any acceptable excuse and for which the kaffârat is necessary requires sixty poor people in one day; and, one poor person cannot be given more than half a sâ’ of wheat in one day. That is, the kaffârats for several oaths cannot be given to ten poor people within the same day. Then, the dawrs for the kaffârats of oaths and (broken) fasts cannot be done in one day. Please see the sixth chapter of the current book! If (the deceased person) enjoined (the isqât) for his oaths, you give two kilograms of wheat or flour, or its equivalent in other property such as gold and silver, to each of ten poor people in one day. Or, you may give the same amount to one poor person every day for ten successive days. Or, (calculating and) giving (the whole expense in) paper money to a poor person, you must say to him, “I appoint you my deputy. With this money you shall buy yourself food and eat it for ten days, twice each day, once in the morning and once in the evening!” If he buys other things, such as coffee and newspapers instead of feeding himself as advised, it will not be acceptable. The best way to do it is to bargain with a restaurant and give the ten days’ expense to the restaurant and have the poor person eat there every morning and every evening for ten days. So is the case with the kaffârat of a fast that was broken after the niyya and with the kaffârat of zihâr; in either of these two cases, for one day’s kaffârat you give half a sâ’ of wheat or other property of the same value to each of sixty poor people in one day or to one poor person for sixty days or feed him twice a day (for sixty days).

It is not necessary to perform the isqât of zakât not enjoined (by the deceased person). The fatwâ permits the inheritor to perform the dawr for the isqât of zakât by his own volition.

While making dawr, each time the poor people are given the gold, the walî should intend for the isqât of salât or fast. The poor person also should say, “I have given (this to you) as a gift,” as he gives back the gold and the guardian should reply, “I have received (it).” The book **Ashiat-ul lamaât**, in its discourse on the kinds of people who are not permitted to accept alms or zakât, states that ’Âisha ‘radiy-Allâhu ’anhâ’ related: “Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ came to my room. There was boiling meat in the pot. I served him bread and some other food that I had in the house. He said, **‘I see** (some) **meat cooking.’** ‘That was the meat given to our maid Berîra as alms. I haven’t served this meat, for

you don’t take alms (zakât).’ **‘That meat is alms for Berîra. But the meat that she gives us becomes a gift,’** he said.” The poor can give the zakât they have received back to the rich. What they give becomes a gift. It is allowed (halâl) for the rich to take this. For, the poor has given it out of his or her own property. Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ accepted all gifts given to him without discriminating between rich and poor. In return, he gave much more.” [If the guardian will not be able to perform the isqât, he appoints a non-relative as his deputy to perform the isqât for the deceased person; this deputy is preferred to others in doing the isqât and the dawr.]

[It is written in the final part of **Vasiyyetnâme,** by Imâm Birgivî, and in its commentary by Qâdî-Zâda Ahmed Bey ‘rahmatullâhi ta’âlâ ’alaihimâ’: It is a condition that the poor people must not have the nisâb amount (of property). It is permissible for them to be the dead person’s relatives. When giving (the gold coins) to the poor person, the guardian must say, “I have given these to you for the isqât of so-and-so’s so and so many prayers of salât.” And the poor person must say, “I have accepted them,” and must know that the gold coins belong to him when he takes possession of them. If he does not know this he must be taught beforehand. And this poor person, showing kindness, gives the gold coins to another poor person of his own accord, saying, “I have given these to you for the isqât of so-and-so’s salât.” The latter, taking possession of them, must say, “I have accepted them.” When he takes possession of them he must know that they are his property. The dawr will not be acceptable if he takes them as a deposit for safekeeping or as a loan. And this second poor person, after saying, ‘I have taken and accepted them,’ gives them to a third poor person by saying, “I have given these to you the same way (as they were given to me.)” Thus, dawrs must be done for prayers of namâz, for fasts, for zakâts, for qurbâns, for sadaqa fitrs, for votive offerings, for (violated) human and animal rights. Fâsid and bâtil[1] buying, and selling are among (violated) human rights. It is not permissible to do dawr for the kaffârats of an oath or fasting.

After the dawr is finished, the last poor person taking possession of the gold coins shows kindness and presents them to the guardian of his own volition and of his own will. The guardian

[1] Kinds of buying and selling prohibited by she Sharî’a. There is detailed information about buying and selling in the twenty-ninth chapter entitled **Bey’ and Shirâ** of the current book.

takes them, saying, “I have accepted them.” If he (the poor person) does not present them, they cannot be taken by force, for they are his own property. The guardian gives the poor person some gold coins or some paper money or some of the deceased person’s property and presents the thawâb for the alms to the deceased person’s soul. A poor person who is in debt or a child below the age of puberty must not join the business of dawr. For, it would be fard for a person in debt to pay his debts as soon as he took possession of the gold coins. It would not be permissible for him to give the gold coins to the next person for the deceased person’s kaffârat instead of paying his debt. The dawr would be acceptable, but he himself, let alone earning any thawâb, would become sinful. It is written in Ibn ’Âbidîn ‘rahmatullâhi ta’âlâ ’alaihimâ’ that a child’s giving a present is not sahîh.]

If a deceased person without any property enjoined in his will the performance of dawr, it is not wâjib for the guardian to do the dawr. It is wâjib for the dying person to will as much of his property as sufficient for the isqât, provided that it shall not be more than one-third of the inheritance. Thus, the isqât will be performed without dawr being necessary. He will be sinful if he enjoins that the dawr should be done with less than one-third of his property while one-third of his property would suffice for the isqât. It is written in the two hundred and seventy-third [273] page of the fifth volume of Ibn ’Âbidîn: “If a sick person has small children or poor big children who will need his inheritance, who have reached the age of puberty and who are Sâlih Muslims, it is better for him to leave his property to his Sâlih children instead of willing it for (the performance of) supererogatory pious deeds and services.” The book **Bezzâziyya** writes in its discourse on presents: “One should spend one’s property on pious deeds and services instead of leaving it to one’s fâsiq children (if they are so). For, it would mean to support sins. And one should not give one’s fâsiq[1] child money or property more than his subsistence.”

If a person has numerous debts of salât, fasting, zakât, qurbân and oath, it is not permissible for him to enjoin in his will that dawr should be done with less than one-third of the inheritance he leaves behind and that the rest of the property should be spent on pious deeds such as reading the Qur’ân al-kerîm or the performance of such pious deeds as khatm-i tehlîl and mawlîd. A

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[1] Please see the tenth chapter of the fourth fascicle of **Endless Bliss** for the definitions of terms like ‘sâlih’ and ‘fâsiq’.

person who pays or takes money for such religious services becomes sinful. It is permissible to pay or take money to learn or teach (how to read) the Qur'ân al-kerîm. Yet it is not permissible for reading (or reciting) it.

It is not permissible for the inheritors or for any other person to make qadâ of the deceased's omitted prayers of namâz or fasts. Yet it is permissible, and even good, to perform supererogatory salât and fasts and to present the thawâbs to the deceased's soul.

It is permissible for the deputy appointed by the deceased to make qadâ of the deceased's debt of hajj with the deceased's money; this will absolve the deceased from his debt (of hajj). For, hajj is a worship which is done both with body and with property. Supererogatory hajj can always be performed on someone else's behalf. But the hajj which is fard can be performed by a deputy only on behalf of a person who will not be able to perform it in person till his death.

It is written in **Majma'ul anhur** and in **Durr-ul muntaqâ**: "The deceased's isqât must be performed before the interment. It is written in **Kûhistânî**[1] that it is permissible also after the interment."

In the performance of the isqât of the kaffârats of namâz, fasting, zakât and qurbân for the deceased, one poor person can be given more than the amount of nisâb. In fact, all the gold coins can be given to one poor person.

It is not permissible for a person on his deathbed to give the fidya for his omitted prayers of namâz. If a person is so old that he cannot fast, it is permissible for him to give the fidya for his fasts that he cannot perform. A sick person has to perform his salât at least by moving his head. If a person is so sick that he cannot perform his prayers of salât for more than a day even with such movements (of his head), he will be absolved from the obligation of performing these prayers of salât. He will not have to make qadâ of these prayers if he recovers later. But when he recovers he will have to perform his fasts which he failed to perform. If he dies before recovering, (his sin of not performing) these fasts will be pardoned.

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[1] The book is actually entitled **Jâmi'ur-rumûz** and was written by Shams-ad-dîn Muhammad bin Husâm-ud-dîn Kûhistânî 'rahmatullâhi ta'âlâ 'alaih', (d. 962 [1555 A.D.], Bukhârâ,) as a commentary to the book **Nikâya**, or **Mukhtasar-i-Wikâya**, written by **Sadr-ush-sharî-a thânî** 'Ubaydullah bin Mes'ûd bin Tâj-ush-sharî-a 'Umar, (d. 750 [1349 A.D.], Bukhârâ.)

Death awaits, mind you incline not toward the worldly!
Don’t pursue property, lest you be cheated by what is worldly.
As best you can, perform the emr-i-ilâhî!
All those who come to this world shall, sure, migrate to eternity!
Turn your face to and seek asylum in Jenâb-i-Dhât-i-Mawlâ!

This world is a bridge, to be crossed, not to occupy constantly!
Where are your forefathers; no one about them makes an inquiry.
Where’s mommy, and where’s daddy; world is no one’s property.
All those who come here shall, sure, migrate to eternity!
Turn your face to and seek asylum in Jenâb-i-Dhât-i-Mawlâ!

Death’ll come one day, who on earth from its paws has set himself free?
Those who said, “I’ll never die,” did die; is there an escapee?
Where’re those Shahs and Sultans? Look! Can you see signs of their glory?
All those who come to this world shall, sure, migrate to eternity!
Turn your face to and seek asylum in Jenâb-i-Dhât-i-Mewlâ!

22 – KNOWLEDGE OF FARÂID

The knowledge that teaches who the property left by the deceased person will be given to and how it will be divided and distributed is called **’Ilm-i farâid** (the knowledge of farâid). What Allâhu ta’âlâ declares most clearly and most extensively in the Qur’ân al-kerîm is how to divide and distribute the inheritance left by the deceased. Because most of its procedures have been commanded as fard, it has been termed **Ilm-i farâid** (the knowledge of fards) in aggregate. A hadîth-i-sherîf, conveyed by **Ibn Mâja** and **Dâra Qutnî** ‘rahmatullâhi ta’âlâ ’alaihim ajmâ’in’ in the **Mukhtasar-i Tadhkirat-al Qurtubî**[1], declares: **“Try to learn the knowledge of farâid! Teach this knowledge to the youth! The knowledge of farâid is half of** (all) **religious knowledge. It will be this knowledge that my Umma will forget first.”**

The author of **Durr-ul muntaqâ** ‘rahmatullâhi ta’âlâ ’alaih’ says: “A person who is lost is judged to be dead. A foetus which has been killed in its mother’s womb and for which the diyat has been paid is judged to be dead. The property of these two is distributed to their inheritors. A heir which was in its mother’s womb at the time of death (of its forebear) is judged to have been alive. This foetus being assumed to have been a boy or a girl, the shares it would be given in both cases are separately calculated in accordance with (the knowledge of) farâid, the share that turns out to be more is reserved and the rest is divided among the other inheritors. If this foetus is born alive in less than two years’ time, it becomes an inheritor even if it dies immediately, and it leaves an inheritance when it dies.” In **Ibni ’Âbidîn** and in **Durr-ul-Muntaqâ** it is stated: “If one of two brothers dies in China and the other

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[1] It was written by Abd-ul,Wahhâb Sha’rânî ‘rahmatullâhi ta’âlâ ’alaihim ajma’în’, (d. 973 [1565 A.D.].) It is an abridged version of the book **Jâmi’ul ahkâm**, which had been written by Abû ’Abdullah Muhammad bin ’Ahmad Qurtubî ‘rahmatullâhi ta’âlâ ’alaih’, (d. 671 [1272 A.D.].) This book, in Arabic, is available from **Hakîkat Kitâbevi** in Istanbul, Turkey. **Ibn Mâja** ‘rahmatullâhi ta’âlâ ’alaih’, (209 [824 A.D.], Qazvin, Iran – 273 [886].) His name was Abû ’Abdullah Muhammad bin Yezîd. He was one of the profound scholars in the branch of **Hadîth**. His book of hadîth-i-sherîfs, one of the various books of hadîth-i-sherîfs entitled **Sunan**, is extremely valuable. **’Alî bin ’Umar Qutnî** ‘rahmatullâhi ta’âlâ ’alaih’, (306 [918 A.D.], Dâra Qutn, Baghdâd – 385 [995],) another valuable Islamic scholar who majored in the branch of knowledge termed **Hadîth**. He was the author of one of the books of hadîth-i-sherîfs entitled **Sunan**.

brother dies in Andalusia[1] at sunrise the same day, the one who dies in Andalusia will inherit from the other. For [the earth rotates from west to east and], the sun rises earlier in the east.

1 - Expenses for washing, shrouding, interment, and human debts, respectively, are set apart and distributed from the property left by the deceased. The rest of the property is evaluated according to the market and divided into three. The first part is spent for executing those wills of the deceased that are compatible with Islam. The other two parts are distributed according to their value, or they are sold and the money is distributed to the inheritors, as follows:

(1) First, the twelve people called the ashâb-i farâid are given their dues as prescribed in the Qur'ân al-kerîm. These dues are also termed **fard**. Four of them are male.

(2) The property remaining from the ashâb-i farâid is given to the closest of those relatives of the deceased that are called 'asaba. The names of the 'asaba will be given later. If there are no 'asaba the rest of the property also is distributed to the ashâb-i farâid. But the husband or the wife is not given a share this time.

(3) If none of the ashâb-i farâid or the 'asaba is existent, it will be given to the relatives called dhewî-l-erhâm; and there are five classes of these relatives; their names are written towards the end of the twenty-third chapter.

(4) If there are no dhewî-l-erhâm; either, it is given to a man called mawl-al-muwâlât. [See article ten.] If this does not exist either, it is given to the person who the deceased had claimed to be his relative through someone, —e.g. by saying, "He is my brother"—, but who is not avowed by the person claimed to have mediated in the kinship.

(5) If none of the inheritors mentioned above exists, the remaining two-thirds of the inheritance also is spent for the execution of his orders. If he died intestate, the Bayt-ul-mâl takes the property, even if he was a dhimmî.

2 - The Qur'ân al-kerîm classifies the ashâb-i farâid into six groups and allots each group's share [fard] as follows:

NISF: After the amount enjoined in the will is set apart from the property of inheritance, half of the rest is given to one of the following five kinds of people, with the proviso that, if there is only

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[1] Spain.

one person in one of the first four kinds, she and the husband (of the deceased) will receive it. Two of these four kinds cannot exist at the same time.

Daughter: If the deceased has no son(s), the daughter gets that half.

Son's daughter: If the deceased does not have a (living) child [son or daughter] or a grandson through his son she gets that half.

Sister: If the deceased does not have a (living) child(ren), grandchild(ren) by a son, brother(s), or father, she gets that half.

Paternal sister: She gets that half instead of the sister if the deceased does not have a sister.

Husband: He gets that half if the deceased does not have children or grandchildren by a son.

If one of the first four of these five kinds of poeple exists together with her brother, she cannot get her fard. She becomes only an 'asaba. When she becomes an 'asaba, the brother gets twice as much as the sister. Reasons for this are explained in the eighth chapter of the sixth fascicle of **Endless Bliss**. If there are more than one people in one of these four kinds, instead of the nisf they get the thuluthân (two-thirds) and share it.

RUBU': Are those who will get one-fourth. They are two people:

Husband: If the deceased has children or grandchildren by a son, the husband gets one-fourth.

Wife: If the deceased has no children or grandchildren by a son, the wife gets the rubu' (one-fourth).

Husband and wife inherit from each other's property during the wife's time of 'iddat[1] in case of talâq-i rij'î.[2]

THUMUN: Gets one-eighth, and is only one person:

Wife: If the deceased has children or grandchildren by a son, the wife gets one-eighth.

THULUTHÂN: Is two-thirds; when there are more than one people in one of the groups whose share is nisf (half), with the exception of the husband, they get equal shares from the two-thirds.

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[1] A prescribed space of time; the space of time within which Islam prohibits a woman to marry a man after separation from a former spouse.

[2] A kind of divorce. Please see the fifteenth chapter of the sixth fascicle of **Endless Bliss**.

THULUTH is one-third and is given to two people:

Mother: If the deceased does not have children, grandchildren by a son, and (in addition to this situation) if there is no more than one of all kinds of brothers and sisters, the mother gets one-third. If the deceased has a father and a husband or a wife also, the mother gets one-third of what remains from the husband or wife and the father. If the deceased has grandfather(s) instead of a father, the mother gets one-third of the whole property.

Uterine brothers and sisters are called **benûl-akhyâf.** When they are more than one, they share the one-third among themselves. Brothers and sisters get equal shares. If the deceased has children or grandchildren by a son or a father or a grandfather, the benûl-akhyâf cannot inherit anything.

SUDUS is one-sixth, and it is given to seven people:

Father: When the deceased has children or grandchildren by a son, the father gets one-sixth.

Mother: If the deceased has children or grandchildren by a son or more than one brother or sister of any kind, the mother gets one-sixth.

Sahîh grandparents:[1] If the deceased does not have a (living) father but has a son (or sons), the grandfathers and grandmothers get one-sixth.

Granddaughters by a son get one-sixth and share it when they exist with the one daughter of the deceased.

Paternal sister gets the sudus when she exists with the one daughter of the deceased.

Uterine brother or sister: When the deceased has one uterine brother or sister, he or she gets the sudus (one-sixth).

Warning: When the father is to receive one-sixth first the father receives the sudus (one-sixth) and then the mother receives one-third of the remainder. If the mother does not exist, the grandmothers still receive the sudus; they cannot replace the mother and receive the thuluth.

3 - Male inheritors are ten, and nine of them are 'asaba. The hushand cannot be an 'asaba:

Father: If the deceased does not have children or grandchilden by a son, the father becomes only an 'asaba. If the deceased has a daughter or a granddaughter by a son, the father is included both

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[1] Jedd-i sahîh: ancestor(s) in the direct male line.

in the ashâb-i farâid and in the ’asaba. If he (the deceased) has a son or a grandson by a son, he (the deceased’s father) gets only the sudus.

Sahîh grandfathers: Are those grandfathers who are not linked with the deceased by mother. They become ’asaba instead of the father when the deceased does not have children or a father. If the deceased has a son, such a grandfather gets only the sudus in lieu of the father. If the deceased has a father, they cannot be inheritors at all.

Son: Is the most emphatic ’asaba; when there is a son none of the other ’asabas can be an ’asaba. If a child is expected to be born, it is accepted as male and its share is reserved accordingly.

Son’s son: When the deceased does not have a son, the son’s son becomes the most emphatic ’asaba and the ’asabas fall from being ’asabas.

Brother: There are three sorts of brothers: shaqîq, only by father, only by mother. Shaqîq, that is, brother of the same parents, brother uterine or brother of the same father becomes an ’asaba when the deceased does not have a son, son’s son, father or grandfathers.

Brother’s son, paternal uncles and their sons, and, if the deceased was a manumitted slave or jâriya, the man who manumitted him or her, respectively, become ’asabas if there are not any ’asabas prior to them.

Husband: Is included only in the ashâb-i farâid. He does not become an ’asaba.

4 - There are seven female inheritors: The deceased’s daughter, granddaughter by a son, mother, sahîh grandmothers, sisters of three kinds, wife, and, if the deceased was a slave or a jâriya, the woman who manumitted him or her. When there are more than one wives, they share one fard.

5 - If the deceased has more than one daughters, deceased’s granddaughters by a son cannot become inheritors. But if he (or she) does not have (living) sons but has a grandson by a son also, his (or her) son’s daughters become ’asabas together with the grandson, and what remains from the daughters is distributed to the son’s sons and son’s daughters, each grandson being given twice the share of each granddaughter. If the deceased has a son, the son’s children cannot be inheritors.

6 - **Benûl-a’yân** consists of brothers of the same parents, who are also termed shaqîq, and **Benûl’allât**, that is, brothers of the

same father but different mothers; these cannot be inheritors when one of the son, son's son, father and grandfather exists (is alive).

Sisters can be only 'asabas when the deceased has a daughter or a granddaughter by a son or when the deceased has brothers as well. They cannot be inheritors if the deceased has a son, a grandson by a son, or father.

If the deceased has more than one shaqîqas, that is, sisters of the same mother and father, his (or her) sisters of the same father only cannot be inheritors when they are without brothers of the same kind. But if the deceased has also brothers of the same father, these cause the sisters of the same father to become 'asabas, and the property remaining from the sisters of the deceased (shaqîqas) is distributed to his (or her) brothers and sisters from the father, the brothers being given twice the amount (received by the sisters).

Sisters from the same father can be only 'asabas when the deceased has a daughter or granddaughter by a son or when the deceased has a brother, too; but they cannot be inheritors if the deceased has two sisters (shaqîqas) or a son or a grandson through a son, or father. The dead person's having (living) brothers and sisters of the same father and mother does not exclude his (or her) brothers and sisters uterine from being heirs. In other words, the benûl-akhyâf (brothers and sisters uterine) do not fall from being heirs on account of the benûl-a'yân.

7 - The dead person's son and daughter from his wife or jâriya, his (or her, if the deceased is a woman) father and mother, wife or husband are never deprived of the inheritance. Of the 'asabas other than these, a person who is related to the deceased through one other person cannot be a heir or heiress if that other person exists. Those who are closer to the deceased deprive those who are farther away. [For example, when a sister exists as an 'asaba, the paternal uncle or the brother's son cannot be an 'asaba.] Only, brothers and sisters uterine are exempt from this. One who is related (to the deceased) through two lines deprives one who is related through one line. For example, brothers of (only) the same father cannot inherit in case a brother of the same father and mother exists. Sisters of (only) the same father, when they are 'asabas, fall from being 'asabas when the deceased has a brother. Likewise, when the deceased has a daughter, she causes the brother of (only) the same father to fall.

The ashâb-i farâid can get their shares from the inheritance

according to the conditions written on the previous page.

8 - All the jaddas, that is, grandmothers, are excluded from the inheritance when the deceased has a mother. The jaddas in the male line are excluded also when there is a father. However, existence of grandfathers does not exclude them.

9 - Slaves, the deceased's murderer (if the deceased is the victim of a murder), non-Muslims, renegades cannot be heirs. [Then, if a Muslim's progeny are scornful about harâms and fards, e.g. namâz, ghusl, ablution, fasting, if they do not feel penitent for their sins, they become renegades and they cannot inherit from a Muslim.] An illegitimate child disavowed by the father cannot be a heir to his (or her) father. However, it is permissible for a Muslim to will his property to a disbeliever and for a disbeliever to a Muslim.

10 - If a dhimmî [a non-Muslim countryman] or a harbî [a foreign disbeliever] is converted to Islam with the help of a Muslim and accepts that Muslim as his guardian, that is, commits himself under his command, and if that Muslim accepts to undertake the payment of his debt, that Muslim becomes his **Mawl-al-muwâlât**.

In our explanation of the land laws within the subject of zakât of the produce of the earth, in the first chapter, we have written that there are four kinds of land. The first kind subsumes, as we have explained, those land areas that are the people's property. When the owner of such land dies, the land may be sold and the money may be spent for the payment of the owner's debts. One-third of the rest is spent for the execution of his will. And two-thirds is distributed to his heirs in prescribed shares. The second kind consists of those mîrî land areas, which belong to the Beyt-ul-mâl. They are rented out with title deeds to people in return for ready money. Such land does not become the holder's property. When the holder dies it is not sold for the payment of his debts or for the execution of his will. It does not become an inheritance for his heirs. It is rented out to someone else. But, as a favour to the people, the State gave to the owner of a mîrî land area the right to transfer it to someone else in return for money or present it and it could be transferred to his children without ready money when he died. The title deed's being transferred to his children was not a legacy; it was the State's favour; the land did not become the heirs' property, yet it was rented out to them. According to the fifty-fourth and the following chapters of the law, when the holder of the title deed died the land was distributed equally to his sons and daughters. If he did not have children, it was given to his

grandchildren; if they did not exist, to his father; and if he did not exist either, to his mother, free of charge. But, in giving the right of transfer to the father or mother, one-fourth was given to the husband or wife (depending on the deceased's sex) and then three-fourths was given to the father or mother. The husband or the wife could not get a share from the mîrî land if the deceased had children or grandchildren. The grandchildren of the deceased had shares equal to his (or her) children's. There is no mîrî land today; all such land has become the people's property. So, such land has to be divided like other property of inheritance now. Please see the final parts of the books **Berîqa** and **Hadîqa**!

Every Muslim should make his **testament** during his illness that feels like it is going to end in death. It is stated in the book **Mâ-lâ-budda:** "If a person feels deadly ill, it is wâjib for him to write his will, yet it is mustahab to write and have it with him if he feels well." In this written will, he should give his last advice to his children and friends. He should request them to see to that people whom he has hurt, offended or wronged or to whom he owes, (if there are any such people) be paid their rights or dues or apologized to or somehow pleased, to pay his debts, to perform isqât for him and, (if hajj has become obligatory for him), to either make hajj on his behalf or to have a deputy sent. He should state his wishes concerning his funeral service and after burial. He should never forget to request that his debt of **Mahr-i muejjel** to his wife be paid. And he should choose a guardian in the presence of two 'âdil witnesses for fulfilling his wishes in accordance with the rules of Islam. **Qâdî Khân** 'rahmatullâhi 'alaih' states: "According to Imâm Muhammad 'rahmatullâhi 'alaih' it is permissible to enjoin that a cemetery should be made in the field you are leaving behind or that a hotel or a mosque or a fountain should be built for travellers or that shrouds or coffins should be bought or graves should be dug for Muslims or expenses of a mosque should be met with one-third of your property. However, it is not permissible to enjoin to build a penitentiary by allocating one-third of one's property, for this duty is the government's responsibility. If the deceased person enjoined performance of hajj, the deputy must be sent forth from the city of residence. If the property is not sufficient to cover the expenses from the city of residence, the deputy is to be sent from an affordable location. If he enjoined Jihâd, then the property is given to the soldiers and/or is spent on military equipment. It is permissible to make a bequest to poor disbelievers who believe in another Heavenly Book, but it

is not permissible to enjoin building of a church. It would be bâtil to bequeath a pardon for one's convicted murderer. If a person leaves only a house, he is permitted to enjoin that a certain person should live there. In that case, the latter can live in the house till death. Before it becomes evident by its symptoms that death is quite close, it is permissible for a person to give a gift to one of his children for the purpose of rewarding the extra services he has done or because he is in need, unless pains of death have already appeared on him. If the bequest is made to distribute one-third of one's property to the poor within a certain city, it is permissible to distribute it to the poor who live in other cities. If the bequest provides that the money should be distributed to ten poor people, it is permissible to give all of it to one poor person, or the other way round. It is also permissible to distribute it in one day, even if it was instructed to distribute it in ten days. If a person bequeathed one-third of his property to his relatives, it is distributed to those other than heirs. Even if there are infants among the heirs or the deceased had debts, adults may utilize the inherited property. (See the forty-fifth chapter.) A person can annul his last will; however, denial of the will does not mean annulment. Anyone who accepts to execute the will cannot give up after the ill person's death. If a fâsiq Muslim or a dhimmî who is not trustworthy is appointed as an executor, a judge can replace him. It is not permissible to hire an executor. However, a pay promised to him becomes a bequest; he takes it and undertakes his duty as the executor. Even if the father of the deceased who did not appoint an executor will become the guardian of his infant grandchildren, he cannot sell any property in order to pay debts. The executor or the grandfather guardian cannot lend the orphan's property; however, a judge can do so. The executor cannot pay the deceased's debts with the orphan's property. Nor can he pay the orphan's fitra or perform the qurbân for the orphan (out of the orphan's property.) But the father can. If the executor becomes needy, he can utilize the orphan's property, but he cannot donate it to someone else. If he wastes the property he should be dismissed. He is not permitted to use the orphan's property for his own needs and later reimburse it with its equivalent. It is necessary to give it to the orphan when he grows up." The book **Durr-us sukûk**, which was printed in 1288, contains Islamic law court decisions. One of the documentaries demonstrating the appointment of an executor is as follows:

"Draper Osmân Efendi, who dwells at such-and-such building near Gedikpaşa in Islâmbol city, says in the majlîs-i-shar'i sherîf-i-

anwar and also in the presence of Ahmed Ağa, ‘When I die by the command of Allâhu ta’âlâ, all my property and all the loans due to me shall be collected; first the washing and shrouding of my corpse shall be done as is customary; then my debts shall be repaid if there are any, and one-third of the rest shall be set apart. Of this reserved thuluth, such-and-such amount shall be spent performing the isqât of my prayers of namâz and the kaffârats of my fasts, oaths and vows. The isqât must be done compatibly with Islam and the money should be given to the poor. So-and-so much money shall be spent making sweetmeats, and they shall be distributed to the poor. So-and-so much shall be spent for my grave. The rest of this reserved thuluth my appointed trustee shall spend on such pious and charitable deeds as he chooses. I have chosen and appointed Ahmed Ağa, who is present here, for the execution of this will of mine.’ Ahmed Ağa has listened and acceded to this will, and he has undertaken to do all of it the best way. And we the undersigned, have seen and heard and therefore bear witness that he was present.”

Signed Osmân son of Hasan	Signed Ahmed son of Alî
Signed Ömer son of Süleymân	Signed Bekr son of Velî

It is written in **Behjet-ul fatâwâ**: “If the executor appointed (by the deceased) to use one-third of the property in charitable deeds spends so much of the property in charitable deeds, the heirs of the deceased cannot question him on who he has given so much property.”

If a person dies without having appointed an executor, the judge appoints an executor for the fulfilment of his will.

While explaining fâsid sales, the author ‘rahmatullâhi ta’âlâ ’alaih’ of the book **Radd-ul muhtâr** states: “When the heirs know that others have dues from the inherited property and also who the dues belong to, they have to give them their dues. (Otherwise), the property will be harâm for the heirs. If they do not know who the dues belong to but if they are able to distinguish the property which belongs to others, that distinguished property will still be harâm for the heirs. They must give that property as alms to the poor with the intention that the thawâb shall belong to the owner of the property. If that property has been mixed up with the deceased’s propery and if its owners are not known, it becomes

halâl for the heirs, according to scholars. [If a civil servant bequeaths to one of his heirs some money in form of compensation or salary as he dies, the money becomes the receiver's property. The other inheritors cannot demand any share from the money.]

It is permissible to eat the food offered by a person who is known to have been earning money by cruelty, bribery, extortion or theft, or whose loans are known to be paid with money earned likewise. But it is not permissible if it is known that the food itself comes by way of harâm. So is the case with a woman who eats the food brought home by her husband.

If the debts of the deceased are in excess of the property he leaves, the heirs can prevent the sale of the property left by paying the value (of the owed property) to the creditors out of their own property. The creditors cannot say that they shall not let them (the heirs) have the (left) property unless they (the heirs) pay all the debts."

The sons' being given twice as much as the daughters in the dividing up of inherited property has been leading some people to misconception; it has been another basis for some religiously ignorant people to inveigh against Islam. They say that in Islam women are deprived of their rights. I have quoted a very ignoble poem fibbed by Ziyâ Gökalp, in the 41st chapter of the part named **Doğruya İnan, Bölücüye Aldanma** in my Turkish book **Fâideli Bilgiler** (Useful Information). In truth, in Islam the woman has been given so much that she does not need a bit of inheritance. Her husband, her father, her brother, and her other mahram relatives such as paternal uncles have been enjoined to work, earn and meet all her needs. On account of this hard task, men would deservedly be inheriting the whole property had Islam not favoured women with getting half men's share. Despite the fact that the man has to support the woman and the woman does not have to support even herself, Islam supports the woman by giving her a share from the inheritance in addition. This is another demonstration of the fact that women are cherished highly in Islam. Anyone who disapproves and dislikes the rules of Islam becomes a disbeliever. If a daughter says, "I want a share equal to my brother's," the inherited property will be divided into six shares, the son will be given four shares and the daughter will be given two shares, and both of them will acknowledge their acquiescence in this commandment of Allâhu ta'âlâ. Then the son will donate one of his four shares to his sister, thus securing her against the danger of becoming a disbeliever.

23 – CALCULATIONS of FARÂID
(Solution of the Problems of Farâid)

Solving the problems of farâid requires learning well and memorizing the ten pieces of knowledge given in the previous chapter.

Of the six fards, which are commanded clearly in the Qur'ân al-kerîm and which are written in section number two above, nisf, rubu' and thumun are termed the **First Category**, and the kinds thuluthân, thuluth and sudus are termed the **Second Category**.

There are two possible cases in calculations of farâid:

FIRST CASE: The ashâb-i farâid and the 'asabas exist together, in which case one of the following five situations may be in question:

1 - If the nisf exists with the second category, the inheritance is divided by six; this is formulated as "The matter [problem] is based on six."

For example, if there is the husband, two sisters uterine and one paternal uncle, the problem is based on six; so the husband gets three shares, the two sisters uterine get two shares, and the remaining one share is given to the uncle.

To exemplify, if a deceased woman leaves nine thousand liras as an inheritance, the woman's husband gets 9000x3/6=4500 liras, her two sisters get 9000x2/6=3000 liras, and the uncle gets 9000x1/6=1500 liras. The sisters get fifteen hundred liras each.

A second example: When there is the husband, the mother and a jedd (grandfather), the husband gets three shares, the mother two shares, and the grandfather the remaining one share.

2 - If the rubu' exists with the second category, the matter is based on twelve.

For example, when there is a wife, the mother, two sisters, and two sisters uterine, the inheritance is divided by twelve, the wife is given three shares, the mother two shares, the two sisters eight shares [four shares to each], and the two sisters uterine four shares [two shares to each], in which case the number of shares becomes seventeen. Then, the basis of the problem makes **awl** (swerves) to seventeen and then the inheritance is divided by seventeen.

A second example: When there is the wife of the deceased, his father's mother and his paternal uncle, three of the twelve shares are given to the wife, two to the grandmother, and the remaining seven shares to the paternal uncle, who is an 'asaba.

3 - When the thumun exists together with the second kind, the matter is based on twenty-four. For example, when there is a wife, two daughters, the mother, and a paternal uncle, the problem is based on twenty-four, and the wife is given [24x1/8=3] three shares, the two daughters are given [24x2/3=16] sixteen shares, the mother is given four shares, and the remaining one share is given to the paternal uncle.

A second example: When there is a wife, a daughter, son's daughter, the mother, and a sister, three of the twenty-four shares are given to the wife, four shares to the son's daughter, four shares to the mother, twelve shares to the daughter, and the remaining one share to the sister, who is an 'asaba.

4 - When one share cannot be divided by the number of the people (who are to share it), the basis of the problem is multiplied by the number of those people, and the inheritance is divided by this new basis.

For example, when there is the husband and five sisters, the basis of the problem, which is six, makes awl, [that is, changes], to seven, and the five sisters get four shares. Since four shares cannot be divided by five, the number of sisters, the basis of the problem becomes 5x7=35. So, [4x5=20] twenty shares are given to the five sisters, and [3x5=15] fifteen shares to the husband.

5 - If a few shares cannot be divided between the owners of those shares, the least common multiple of the number of the owners of those shares is multiplied by the basis of the problem and thus the new basis is found. The inheritance is divided by that new basis.

For example, when there are three daughters and three paternal uncles, the problem is based on three; so the daughters get two shares and the uncles get one; yet because the share cannot be divided by the number of individuals the basis of the problem becomes [3x3=9] nine; [9x2/3=6] six shares are given to the daughters and [9x1/3=3] three shares to the uncles.

A second example: When there are two wives, ten daughters, six grandmothers and seven paternal uncles, the problem is based on twenty-four, and three shares belong to the wives, sixteen shares to the daughters, four shares to the grandmothers, and the remaining one share belongs to the uncles; but because the number of shares is not divisible by the number of their owners, the least common multiple of two, ten, six and seven, (210), is multiplied by the basis of the matter, (24), and the result is

obtained: [24x210=5040]. The wives get [5040x1/8=630] six hundred and thirty shares, the daughters [5040x2/3=3360] thirty-three hundred and sixty shares, the grandmothers [5040x1/6=840] eight hundred and forty shares and the uncles [5040x1/24=210] two hundred and ten shares. Thus, one wife gets 315 shares, one daughter 336 shares, one grandmother 140 shares, and one paternal uncle 30 shares.

SECOND CASE: There is only the ashâb-i farâid. Because there are no 'asabas, the property remaining from the ashâb-i farâid is again divided between the ashâb-i farâid in proportion with their shares. That is, it is returned to the ashâb-i farâid. But it is not returned to the husband or wife. These two are called **unreturned**. Those ashâb-i farâid other than the husband and wife are called **returned**, which means those that are given again. The problems of the second case are called **problems of return**. One of two situations may form the problems of return:

1 - If the unreturned do not exist in the problem of return, two situations are possible:

A: When (all) the returned own their fards in (the same) one category the problem is based on two.

For example, when there are two sisters, each gets half of the inheritance.

A second example: When there is a grandmother and a sister uterine, each gets half of the inheritance. For, the fard of both of them is sudus (one-sixth).

B: When the returned do not have their fards in (the same) one category, the basis of the problem of return is the sum of the number of shares.

For example, if the problem contains the categories of thuluth (one-third) and sudus (one-sixth), the problem must be based on six and the share of the one whose fard is thuluth must be 6x1/3=2, and the share of the one whose fard is sudus must be 6x1/6=1. However, because there are no 'asabas our problem becomes a problem of return, and the basis of the problem becomes [2+1=3] three, instead of six. An example of this is the existence of a mother and two sisters uterine; since the fard of the mother is sudus and the fard of the two sisters is thuluth, this problem of return is based on three; so the sisters are given two shares and the mother is given one share.

A second example: In a problem of return, if the categories of nisf and sudus exist together, the problem, which would normally

be 6x1/2=3, and the share of the one whose fard is sudus would be 6x1/6=1, is based on [3+1=4] four on account of its being a problem of return. When there is a daughter and a son's daughter, three shares belong to the daughter and one share belongs to the son's daughter.

A third example: If the problem of return contains the categories of nisf and thuluth or sudusân [two units of sudus] and nisf or thuluthân [two units of thuluth] and sudus, the problem is based on five instead of six. When there is one sister and two sisters uterine the basis of the problem of return becomes [3+2=5] five, three shares being given to the sister and one to the two sisters uterine.

2 - When the problem of return contains the unreturned too, there are, again, two possible situations:

A: When the returned have their fards in (the same) one category, either one of two cases exist(s):

First case: If, after the unreturned has gotten his (or her) share, the remaining property can be divided by the number of the returned, the unreturned gets his (or her) share and the rest is divided by the number of the returned.

For example, when there is a husband and three daughters, the husband gets one of the four shares and the remaining three shares are distributed to the daughters.

Second case: If, after the unreturned has gotten his (or her) share, the remaining property cannot be divided by the number of the returned, the basis of the problem is found by multiplying the number of the persons returned by the denominator of the fard [share] of the unreturned.

For example, when there is a husband and five daughters, the husband gets the rubu' (one-fourth) and the remaining three shares cannot be divided between the five daughters; so the basis of the problem becomes [4x5=20] twenty, the husband gets five shares and the daughters get fifteen shares; each daughter is given three shares.

B: If the returned own fards in two or three different categories, the person unreturned gets his (or her) share and the remaining property is divided like in the problem of return. Here also, there are two cases:

First case: If the shares remaining from the unreturned can be divided by the basis of the problem of return, for determining the basis of the problem the least common multiple of the number of

the returned and unreturned is multiplied by the denominator of the fard (share) of the unreturned.

For example, if there is one wife, four grandmothers and six brothers or sisters uterine; when the wife gets the rubu', three shares remain; the basis of the problem of the returned is the share of the grandmothers (6x1/6=1) plus the share of the brothers or sisters (6x1/3=2)=1+2=3. Since the remaining three shares can be divided by the basis of the problem of return, which is three, the basis of the problem becomes [12x4=48] forty-eight. For, the least common multiple of four, which is the number of the grandmothers, and six, which is the number of the brothers and sisters, is twelve. 48x1/4=12 shares fall to the wife, 1x12=12 shares to the four grandmothers — three shares to each — , and 2x12=24 shares to the six brothers or sisters—four shares to each.

Second case: If, after the unreturned has gotten his (or her) share, the remaining shares cannot be divided by the basis of the problem of return, to determine the basis of the problem the basis of the problem of return is multiplied by the denominator of the unreturned's fard, and the result is, again, multiplied by the least common multiple of the number of the returned and the unreturned.

For example, supposing there are four wives, nine daughters, six grandmothers, the wives get the thumun and seven shares remain. And since the nine girls will get 6x2/3=4 shares and the six grandmothers 6x1/6=1 share, the basis of the problem of return is 4+1=5. The remaining seven shares cannot be divided by five, which is the basis of the problem of return, so basis of the problem becomes [5x8x36=1440] fourteen hundred and forty, and the wives are given [1440:8=180] hundred and eighty shares, the daughters [(1440-180)x4/5=1008] one thousand and eight shares, the grandmothers [(1440-180)x1/5=252] two hundred and fifty-two shares; accordingly, each wife gets forty-five shares, each daughter gets [1008:9=112] hundred and twelve shares, and each grandmother gets [252:6=42] forty-two shares.

Qâdi-Khân 'rahmatullâhi ta'âlâ 'alaih' says that if the spouse of a deceased woman is the only remaining heir, and yet if the decedent bequeathed half of the property to a third party, this third party will be entitled to half of the property. One-third is received by the spouse. One-sixth will be received by the **Bayt-ul-mâl** (the treasury). For, the third party will first receive one-third. Half of the remaining two-thirds, (which translates to one-third of the inherited property), is to be received by the husband. After this

distribution, one-third of the property of inheritance remains. One-sixth of the inherited property out of this residue being given to the third party, the half of the inherited property which was bequeathed to him will have been completed. The remaining one-sixth will belong to the Bayt-ul-mâl, for the remaining part is not to be given to the spouse. If the decedent bequeathed half of the property to the spouse (husband), the entire property would belong to him.

It is written in **Fatâwâ-i Hindiyya**: "Supposing a deceased woman has a husband, a sister, and a sister by her father; half (of the inheritance) falls to the husband, half to the sister, and one-sixth to the sister by her father, and the basis of the problem makes awl (changes) from six to seven. If there were a brother by her father too, he would cause the sister by her father to fall from her share of fard and become an 'asaba. And because there would be nothing remaining from the husband and the sister, the sister by father would get nothing.

DHAWÎ-L-ERHÂM

1 - If there exists no ashâb-i farâid or 'asaba, or if there is only the husband or the wife, the inheritance is given to the dhawî-l-erhâm. The expenses of the funeral arrangement, such as washing, shrouding and interment, and the payment of the human debts having been deducted from the inheritance, one-third of the remainder is spent for the execution of the (decedent's) will. Two-thirds of the rest are given to the closest of the dhawî-l-erhâm. The **dhawî-l-erhâm** consists of five classes, which are as follows in respect of their closeness to the deceased:

I - The first class subsumes the decedent's furû'. Furû', (sing., fer'), means children. (The decedent's) daughters' children, (the decedent's) son's daughters' children and their progeny are in this class.

II - The second class subsumes the decedent's asl, which are the fâsid[1] grandfathers, the fâsid grandmothers, and their parents. Also in this class are the decedent's mother's father and also the father or mother of this last member.

III - The third class subsumes the decedent's father's furû'. All kinds of sisters' children or grandchildren and uterine brothers' children and all kinds of brothers' daughters or grandchildren are in this class.

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[1] Fâsid grandfathers and grandmothers are those in the female line.

IV - The fourth class subsumes the grandparents' furû'. Paternal aunts, maternal aunts, maternal uncles and paternal uncles uterine are in this class. The paternal uncle uterine is one's father's brother uterine. Those paternal uncles who are the father's brothers by the same father and mother or by the same father only are 'asabas. All kinds of paternal uncles' daughters and their progeny are all in the fourth group.

V - The fifth class subsumes the father's or the mother's grandfathers' furû'. The mother's or father's paternal aunts, maternal aunts and maternal uncles, the father's paternal uncles uterine, the mother's paternal uncles, the mother's and father's paternal uncles' daughters, and the mother's paternal uncles' children are in the fifth class.

2 - If only one of the dhawî-l-erhâm exists and none of the other heirs exists, this person gets the entire property. If there is only one person in one of the five classes of the dhawî-l-erhâm, those who are in the following classes cannot be heirs even if they are closer to the deceased. If there are several people in the same class, the ones who are closer to the deceased deprive the ones who are farther of the inheritance. For example, if the mother's father exists, his (mother's father's) mother or father cannot be an heir. Likewise, if the maternal uncle and the maternal uncle's son exist, the maternal uncle's son cannot get any inheritance. Next, one who is related to the deceased by two linkages deprives one who is related by one linkage. For example, when there is a maternal uncle by both parents, (that is, mother's brother from the same father and mother), a maternal uncle only by the same father, (that is, mother's brother only from the same father), cannot be an heir. In case of equality in these respects also, one who is related to the deceased through an heir becomes the heir. For example, if the son's daughter's daughter exists, the daughter's daughter's son cannot be an heir. For, the former is of the progeny of the owner of the fard.

3 - If there is difference in the directions of closeness; for example, if the father's mother's father and the mother's father's father both exist, the one in the father's direction gets two-thirds, and the one in the mother's direction gets one-third.

4 - In case of equality in respect of the degree of closeness, the strength of closeness and the direction of closeness to the deceased, and if none of the concerned is related to the deceased through an heir, the inheritance is divided so that the men get twice as much as the women do. An example of this would be the

existence of both the daughter's son and the daughter's daughter.

The person who has helped a murderer, like the murderer, cannot get any inheritance (from the murdered). This, of course, has the stipulation that they should have reached the age of discretion and puberty. One can be a renegade's heir. But a renegade cannot be a Muslim's heir.

It is stated in the final chapters of the books **Hadîqa** and **Berîqa**, as well as in the books **Sayf-us-sârim** and **Inqaz-ul-hâlikin** and **Jilâ-ul-qulûb**: "If a person donates gold coins or silvers to a public foundation and provides that they should be spent on good deeds such as reading the Qur'ân al-kerîm, performing supererogatory namâz, saying prayers such as tesbîh, tehlîl, mawlîd and salawât and the thawâb for these pious deeds should be donated as gifts to his soul and to the souls of people he names, this will is not sahîh, for it is a bid'at to make such a donation. He or the people he names will not receive the thawâb donated. Money accepted in return for these services will be a fee for the pious deeds, which is an act of harâm. If some people perform these pious deeds voluntarily and donate the thawâb (they will earn for these pious deeds) to people they choose, alive or dead, those people will receive the thawâb. And it will be halâl for them (people who do these pious deeds) to accept the gifts donated to them without bargaining. Donation of this sort will be sahîh."

A lawyer named Toma Andoniaki Bey from the Istanbul Bar, gives information about Ottoman laws in his book **Kâmûs-i Kavânîn** (Dictionary of laws), published in 1310 [1892 A.D.] in Istanbul, and provides further details regarding the distribution of inherited property. A lawyer from Adana, Kasbaryan Bey, wrote about **Majalla** and explained fourteen other Ottoman laws article by article in his book **Juzdân-i Kavânin-i Osmâniyye** (Pamphlet of Ottoman laws) printed in 1312 [1894 A.D.] in Istanbul.

24 – SECOND VOLUME, 16th LETTER

This letter, written to Badî'uddîn Sahâranpûrî, informs about life in the grave and about the thawâb of plague.

Hamd be to Allâhu ta'âlâ. Salâm be to the good people He has chosen. Your valuable letter has reached us. You write that in your part of the country two horrific series of events have commenced, and that one of them is the tâ'ûn [plague] and the other is the qaht [food famine]. May Allâhu ta'âlâ protect us and you against calamities. May He bless us all with good health!

"This great catastrophe notwithstanding, we are still praying day and night and waiting upon the Will of Allâhu ta'âlâ. Our hearts are with Him momentarily," you write. Upon reading this, we paid our hamd and gratitude to Allâhu ta'âlâ. At such times as this, recite the four **Quls** very often! [That is, say the sûras beginning as "Qul yâ ayyuhal kâfirûn...," "Qul huwallâhu..." and "Qul a'ûdhu..." This will protect you against the harms of genies and human beings!]

The sunna prescribes that a man's shroud must consist of three parts. It is bid'a to wrap a turban. A piece of paper called **Ahdnâma**, [on which the answers to be given to the interrogating angels and the prayers such as istighfâr are written,] must not be put in the grave. Otherwise it will cause the blessed letters and names to be smeared with the foul exudations from the corpse; and it has not been commanded by any [of the four] basic proofs [of Islam]. The savants of Mâwarâ-un nahr [Transoxiana, the cities between the rivers Syr Darya (Jaxartes) and Amu Darya (Oxus) near the Aral Sea] never did so. It is good to put a savant's shirt on the deceased instead of a qamîs. Martyrs' shrouds are their clothes. [Those martyrs who die of a wound by a gun are not washed or shrouded. Those who die in combat without being wounded or who die of an epidemic disease or in a catastrophe still get the thawâb of martyrs, but they are washed and shrouded.] Abû Bakr-i Siddîq 'radiy-Allâhu 'anh' enjoined in his last will, "Shroud me with these two pieces of clothes of mine!"

Because life in the grave is like worldly life in one respect, the deceased makes progress and gets promoted. Life in the grave is different with different people. It has been said that Prophets 'alaihimussalâm' perform namâz in their graves. As our Prophet 'sall-Allâhu 'alaihi wa sallam' went by the grave of Mûsâ ''alaihissalâm' on the night of Mi'râj, he saw him performing namâz in his grave. When he ascended to heaven at that moment,

he saw Mûsâ ‘alaihissalâm’ in heaven. Life in the grave is a wonder. Nowadays, studying the life in the grave on account of my deceased eldest son [Muhammad Sâdiq ‘rahmatullâhi ’alaih’], I have been observing wonderful mysteries. If I were to divulge only a few of them, due to their being beyond mind’s range they would cause mischief and a disturbance. The ’Arsh is the ceiling of Paradise. But the grave also is one of the gardens of Paradise. Mind’s eye cannot see this. The astonishing things in the grave are seen with a different eye. Belief in this, weak as it may be, causes one to be saved from torment. However, Allâhu ta’âlâ’s accepting that beautiful word [Kalima-i tawhîd] requires the slave’s [obeying Islam in the world and] doing pious deeds.

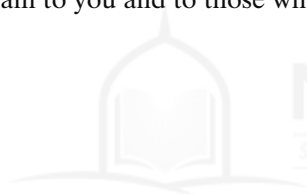
It is a grave sin to abandon a place stricken with plague for the purpose of escaping death. It is like deserting the battlefield. A person who does not leave the place of plague and who puts up with it patiently will get the thawâb of martyrs when he dies. He will not suffer any torment in the grave. If this patient person does not die, he will get the thawâb of ghâzîs (people who survive a Holy War).

25 – SECOND VOLUME, 17th LETTER

This letter, written to Mirzâ Husâmaddîn Ahmad, explains that worldly troubles will promote a person though they taste bitter, and states the value of dying of plague.

First, I extend my hamd to Allâhu ta'âlâ and send my salawât to our Prophet 'sall-Allâhu 'alaihi wa sallam', and then I pronounce a benediction over you. I have been disturbing you with my letters. Shaikh Mustafâ has delivered your valuable letter, in which you advise us to be patient about the misfortunes that have befallen us. We have been honoured with reading it. All of us are Allâhu ta'âlâ's property. All of us will go before Him! The misfortunes that have fallen upon us are, outwardly, very poignant, very bitter. But in reality they are progressive and exalting medicines. [Certainly, a medicine will be bitter.] The benefits which these bitter events produce in this world cannot be a hundredth of the blessings which we expect to be given in the Hereafter. Then, the child is a great blessing from Allâhu ta'âlâ. As long as it lives you reap many benefits from it. And its death brings you thawâb and promotion. The great savant Muhyissunna [Nawawî] 'rahmatullâhi 'alaih' says in his book entitled **Hilyat-ul abrâr**: "When 'Abdullah ibn Zubayr was Khalîfa plague broke out, and it bereaved Anas bin Mâlik 'radiy-Allâhu 'anh' of eighty-three of his children. Having been a servant of our Prophet's 'sall-Allâhu 'alaihi wa sallam', he had been honoured with his (the Prophet's) benediction of barakat and abundance over him. The plague bereaved also 'Abdurrahmân bin Abî Bakr Siddîq 'radiy-Allâhu 'anhumâ' of forty children." With this having been done to the Sahâba ''alaihimurridwân', who are the best and the most valuable of mankind, how could we expect to be taken into special accounts so sinful as we are? A hadîth-i sherîf declares: **"The plague was sent as a torture onto the previous ummats. For this Umma it is a cause of martyrdom."** Indeed, those who die of plague die in astounding serenity and with tawajjuh towards Allâhu ta'âlâ. On this day of calamity one longs to join that blessed company; one desires to leave the world and accompany them in their cruise to the Hereafter. The catastrophe of plague may seem to be wrath and torment upon this Umma, but essentially it is (Allah's) Compassion. Mayân Shaikh Tâhir said that during the days of plague someone in Lahore had heard some voices saying, "Shame upon anyone who does not die during these days!" It is true! When due attention is paid to the states of these martyrs, bewildering

states, occult occurrences are observed. Such blessings are exclusive only to those who sacrifice their lives for Allah's sake.

Sir! The bereavement of my most cherished son has been a very great catastrophe. It has scorched me. No one has suffered such a burning grief. Yet at the same time the blessing of patience and gratitude, which Allâhu ta'âlâ has bestowed on this weak-hearted faqîr, me, against this catastrophe, has been one of His greatest gifts. I pray that Allâhu ta'âlâ will not give the reward for this catastrophe in the world and will give it in the Hereafter! However, I am not unaware of the fact that this wish of mine originates from the depression in my heart. For, His Mercy is endless and His Compassion is profuse. Both in this world and in the Hereafter, He gives profusely. What we expect from our brothers is that they help and rescue us by praying for our guidance toward îmân in our last breath and for the forgiveness of our sins, which we have committed out of human weaknesses. O our Allah, forgive us and do not let us deviate from the right way! Help us defend ourselves against unbelievers! Âmin. I send my salâm to you and to those who are on the right way.

26 – SECOND VOLUME, 88th LETTER

This letter, written for Molla Badî’uddîn, informs that it is necessary to acquiesce in Qadâ and to derive pleasure from the arrangements of the Owner.

Hamd be to Allâhu ta’âlâ and salâm to His chosen, beloved slaves! The good slave is the one who approves and likes the arrangements of his Owner. A person who likes his own wishes is servile to himself. Even if his Owner thrusts a dagger in his slave’s throat, the slave must like it and be pleased with it. If, may Allah forfend, he does not like and approve of it, he will no longer be His slave; he will distance from his Owner. [Epidemic and fatal diseases such as plague come as a result of Allâhu ta’âlâ’s Will. One must be happy as if it (the disease) came as a result of one’s own wish. One must not become angry or sorry when a plague (or any other epidemic disease) comes. Thinking that it is the Beloved’s making, one must take delight in it. Everyone has a certain time of death. This time never changes. For this reason, one must not feel sad or worried in the event of a disease. When such griefs and calamities come about, one must trust oneself to Allâhu ta’âlâ and pray, invoke Him for good health and salvation. Allâhu ta’âlâ likes those who ask for good health and salvation. It is declared in the Sûrat-al Mu’mîn: “Pray! I shall accept your prayers!” [For that matter, we ask Allâhu ta’âlâ to bless us with hidâya (guidance) when we recite Sûrat-ul-Fâtiha during every prayer of namâz.] Mawlânâ ’Abd-ur-Rashîd has arrived here and told us about you. May Allâhu ta’âlâ protect you against events that can be foreseen and prevented and against those that cannot be seen and prevented! Âmîn.

[Ya’qûb bin Sayyid Alî ‘rahmatullâhi ’alaih’, in his commentary to the book **Shir’at-ul Islam**, refers to the hadîth-i sherîf, **“Praying is worshipping.”** Even if the prayers are not accepted, they will yield thawâb. Acceptability of any prayer depends on various conditions: Halâl food must be eaten. If a person eats harâm food, the prayers that he offers for the forty days thereafter will not be accepted. Prayer is the key to satisfying one’s needs and providing happiness. The cogs of this key is the halâl food. Secondly, the clothing should be **tîb**. Property which is not forbidden is called halâl. Property which is not of doubtful origin is called **tîb.** While praying the heart should be awake and one must believe that one’s prayers will be accepted. The prayers of an ignorant person who is not aware of what he says will not be accepted. Before praying, one should

repent and ask Allâhu ta'âlâ for forgiveness. One should not be impatient for the acceptance of prayers. Praying should continue and one should not flag. Allahu ta'âlâ likes prayers and the person who prays. His way of giving to those whom He loves is to delay the thing requested, even though the prayer has been accepted, in order to protract the prayer and thus to increase its thawâb. The prayer should be repeated at least seven times. Anyone who prays more at times of comfort and ease will have his prayers accepted sooner at times of trouble and misfortune. Before praying, first offer hamd to Allâhu ta'âlâ and send "salât and salâm" to Rasûlullah. Rasûlullah 'sall-Allahu 'alaihi wa sallam' stated: **"Subhâna rabbiyel aliyyil a'lal Wahhâb,"** when he started his prayers. First one should make tawba for one's sins, then pray for the health and happiness of all Muslim Believers, and then request wholeheartedly for whatever one wishes. Things that are inconsistent with both rational behaviour and religious rules should not be requested. For example, a prayer such as "Donate to me a white chalet on the right-hand side of heaven" should not be made. The blessed thing requested should be heart-felt and the meaning of the prayer should be known. A prayer should not be wishful thinking, and one must stick to the means which will lead to the end. That is, first one must hold tight to ' ibâdât and good deeds, then pray and expect the Grace of Allah. Good deeds and worships are the means of love. Without you sticking to the means, your prayers will not be accepted. It will not be called a prayer. It is called a useless wish. Any request that is not expected to be fulfilled is called a wish. To ask for something expected is called a rejâ (request). One must invoke (Him) for the attainment of the means for what is wished. It is stated in a hadîth-i sherîf: **"Anyone who prays without working for it, is like a soldier who goes to war without a gun."** The request should be made by kneeling towards the Kâ'ba, after making an ablution, by opening the palms [to the sky], by orientating oneself to the souls of Prophets and Awliyâ, and by asking "for the sake of those beloved people," and the last word should be **"Âmîn."** First of all, the prayer should be made for forgiveness and compassion. A very valuable prayer which comprises all these elements is **"Allahumma rabbenâ âti-nâ fiddunyâ haseneten ve fil-âkhireti haseneten ve qi-nâ adhâbennâr.."** One should not pronounce maledictions over oneself, over one's children, over one's spouse. [One should not say, for instance, "Yâ Rabbî! Take my soul out!"] If it is accepted, repentance will be futile. The translation from the explanation of Shir'a ends here.]

27 – THIRD VOLUME, 15th LETTER

This letter, written to Mîr Muhammad Nu'mân 'qaddas-Allâhu ta'âlâ sirrah ul-'azîz', **informs that the troubles and pains coming from the Beloved are, to the lover, sweeter than His blessings and sweets.**

Hamd[1] be to Allâhu ta'âlâ and salâm to those people beloved and chosen by Him! My dear sayyid brother! Listen with attention! I have heard that our good-willed brothers have had recourse to all kinds of remedies so that we might rid ourselves of our grief and that all your efforts have been of no avail. The hadîth-i sherîf, **"There is khayr, goodness in what Allâhu ta'âlâ creates and sends,"** is well-known. Being human, for some time we sorrowed over the events that had befallen us; we felt annoyed. But after a few days, with the grace of Allâhu ta'âlâ, the sorrows and grievances disappeared, not a bit of them being left. They left their places to joy and relief; for, those who had been disturbing us had been merely executing the Will and Decree of Allâhu ta'âlâ. In view of this firsthand fact, I realized that it would be useless to feel sorry or grieved and that a person who claimed to love Allâhu ta'âlâ must not feel so. Indeed, the afflictions which the Will of the Beloved sends upon the lover must be, like the favours coming from Him, endearing and sweet to the lover. As the Beloved's favours come sweet, so should His hurting. In fact, one must find more pleasure in the bitterness than in the sweetness coming from Him. For, pains and distresses do not please the nafs.[2] The nafs does not like such things. When Allâhu ta'âlâ, who is beautiful in every respect and beautiful from every aspect, wills to hurt this slave of His, His Will must, certainly, come sweet to the slave. As a matter of fact, he must take delight in it. Because the wills and wishes of those who have been disturbing us concur with Allâhu ta'âlâ's Will, because their will indicates the Will of the Beloved, what they will and do also is certainly beautiful and sweet. A person's work representing the Beloved's Work is, like the Beloved's Work, endearing and sweet to the lover. Therefore, that person also becomes beloved for the lover. Amazing to say, the greater the pain and torture that person inflicts on the lover, the sweeter they come to the lover. For, the tortures inflicted by him show that the Beloved is like an enemy. The doings of those who

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[1] Praise and gratitude.

[2] A malignant being inherent in man's nature. All its desires are against the commandments of Allâhu ta'âlâ.

have gone out of their minds in this way are beyond mind's grasp. In summary, to retort upon that person, or to loathe him, is repugnant with loving the Beloved. For, that person is like a mirror reflecting the Beloved's Deeds. Those who disturb and hurt us seem more lovable than others. Tell our brothers and friends! They must not be sorry or worried about us. They must not loathe those who hurt us. And they must not hurt them! (On the contrary), it will be quite right if they are happy about what those people have been doing. Yes, we have been commanded to pray. Allâhu ta'âlâ likes those who pray, who hang their heads before Him, who beg and invoke Him. Such behaviour pleases Him. Pray for the dispelling of the pestilence and trouble! Beg for forgiveness and good health!

I have said that that person's hurting us presents the Beloved as an enemy. It is the case, because the Beloved's enmity is for enemies; His enmity towards His friends is only in appearance; and this indicates His mercy and pitying. Such outward acts of enmity of His are of so many benefits to the lover that they could not be tallied. Furthermore, His displaying such behaviour, which seems like enmity to His friends, destroys those who do not believe these facts and brings ruination to them. Muhyiddîn-i Arabî 'qaddas-Allâhu ta'âlâ sirrah ul-'azîz' says: "The 'Ârif[1] does not have an intention or purpose," which means, "A person who knows Allâhu ta'âlâ does not have recourse to anything for getting relief from a nuisance." The meaning of this statement must be learned well. For, he (the 'Ârif) knows that distresses and calamities come from the Beloved, that they are His Will. Now, does he want to part with something sent by the Beloved and yearn for its deserting him? Yes, he prays and entreats for it to go away; but this he does to obey the command that he must pray. Actually, he does not wish it to go away at all. Everything coming from Him pleases him and comes sweet to him. May Allâhu ta'âlâ give salvation to the adherents of the right way! Âmîn.

It is stated as follows in a hadîth-i-sherîf written in the book **Miftâh-un-nejât**[2]: "**If a person says the prayer of Istighfâr on behalf of Believers twenty-five times daily, Allâhu ta'âlâ will**

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[1] Profound scholar and Walî who Allâhu ta'âlâ has blessed with knowing Him.

[2] It was written by Abu-l-Hasan Ahmad bin 'Alî Nâmiqî Jâmî 'rahmatullâhi ta'âlâ 'alaih', (441 – 536 [1142 A.D.].) It was reproduced by Hakîkat Kitâbevi in Istanbul.

remove ghil and hased (jealousy) **from that person's heart. His name will be written among the names of the Ebdâl. He will be rewarded with as many thawâbs as the number of angels. On the Rising Day, all Believers will entreat: Yâ Rabbî** (O our Allah)! **This slave of Yours recited the prayer of Istighfâr on our behalf. So, please do forgive him** (his sins)!" 'Ghil' means 'deceit'. 'Ebdâl' is the mass name of a group of Awliyâ. The following prayer must be recited (or read) daily: "**Allâhum-maghfir lî wa li-wâlidayya wa li-l-mu'minîna wa-l-mu'minât wa-l-muslimîna wa-l-muslimât al-ahyâ-i-minkum wa-l-emwât bi rahmatika yâ Erham-er-Râhimîn**." This prayer exists also in our book **Kitâb-us-salât**.

28 – KESB AND TIJÂRAT
(EARNING AND TRADE)
in
ISLAM

The following treatise has been translated from the book ‘Riyâd-un-nâsikhîn’:

‘Kesb’ means ‘to earn property by way of halâl.’ Acceptability of all acts of worship is (primarily) dependent on food that is (earned and consumed in a way that Islam ratifies and which therefore is termed) halâl. Ahmad bin Abdullah Isfahânî ‘rahmatullâhi ta’âlâ ’alaih’, (336 [948 A.D.] – 430 [1039],) a scholar in the Islamic science Hadîth, states as follows in his book entitled **Hilya-t-ul-Awliyâ**: “As is stated by a majority of our superiors, acts of worship consist of ten divisions, nine of which are based on earning by way of halâl. All those acts of worship that we know make up the remaining one division.” Then, Muslims should try to earn by way of halâl. They should avoid harâms and doubtful things. Abû Hurayra ‘radiy-Allâhu ’anh’ quotes from Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’: “**Allâhu ta’âlâ is beautiful. He likes only those acts of worship that are performed beautifully. What He commanded His Prophets He commanded Believers as well, and declared: O My Prophets! Eat food that is halâl and perform sâlih (pious) and good deeds! He commanded Believers, too, and said: O ye who believe! Of the sustenance I have given you eat the ones that are halâl**!” Rasûl ‘alaihis-salâm’ is quoted to have continued his hadîth-i-sherîf as follows: “**Someone coming from a long way away, his appearance dishevelled, his clothes shabby, and his face covered with dust and dirt all over, is praying with his hands held towards the firmament, and entreating: ‘Yâ Rabbî** (O my Allah)**!’ However, what he eats is harâm, what he drinks is harâm, and all his nourishment is harâm. How could his prayers ever be accepted**?” As is seen, the blessed Messenger stated that invocations of a person who eats food that is harâm will not be accepted. Therefore, a person who is not adequately knowledgeable about halâls, harâms, doubtful things, and concepts such as interest and usury, and who therefore is unable to differentiate between them, will fail to avoid the harâms, and consequently, the acts of worship he has performed will gain him naught.

The highest way of kesb (earning) is jihâd carried on with

weaponry and penmanship. Trade is the second highest, husbandry is the third, and craftsmanship the fourth. As is seen, these four ways of earning are valuable.

[Jihâd means to make war, to fight by using all one's personal resources such as life, property, means of propaganda, etc. in order to eliminate the cruel tyrants and exploiters who prevent people from hearing about Islam and becoming Muslims and thereby to help them attain the honour of Islam or to protect the property, lives, chastity and honour of Muslims against the aggression and cruelty of armies of unbelievers. Jihâd is executed by the State. It is the State's duty to prepare the people for a possible war and to prime them about warlike situations during peacetime. What devolves on Muslims individually on matters such as the performance of jihâd and attainment of thawâb for jihâd is to hold themselves in readiness for an invitation or summons to join the State's execution or preparation for jihâd and to obey their commanders during their military service. Jihâd is not a fracas wherein every man jack attacks another without the State's permission or a chain of command. Confusions of that sort are settings for marauders and highwaymen. Ibni 'Âbidîn states: "It is wâjib for the State to deal with warlike situations and to make the time's most effective weapons for this purpose, and for the people to help and obey the State. It is not permissible for the State to declare war against an enemy whose army and weaponry are superior to its military power. Jihâd against enemy attacks is farz (fard) for all the people; yet they would not be sinful for failing to make jihâd because the State or the army would not make war or because they were somehow prevented from making jihâd, eager as they were. In case it is known that making war would be futile and death thereupon would be pointless, and that captivity would be inevitable if making war were avoided, then it is not necessary for them to make war. If it is feared that Muslims may be destroyed somehow, peace must be made by giving property to disbelievers." [Hence, it is permissible to give away property for the purpose of being safe against cruelty and fitna.] If a country is invaded by disbelievers, the course of action to be taken is to migrate to the Dâr-ul-islâm. If migration is out of the question and the invading State of disbelievers has recourse to persecution, then a country of disbelievers where oppressive measures are not taken must be the next choice.

It is written as follows in the book entitled **Fatâwâ-i-Hindiyya**: "If the Muslim population in a country is not below half the

number of disbelievers and the Muslims are armed, it is not halâl for them to flee that country. If they are not armed, it is permissible for them to flee from the enemy under arms. [For instance, if they do not have missiles, it is permissible for them to flee from the enemy possessed of missiles.] By the same token, it is permissible for one person to flee from three opponents. It is not halâl for a twelve thousand strong army to flee from the enemy whose number may be several times greater than theirs. It is permissible to flee from a place on which the enemy have targeted their weapons."

Books (written on the Islamic science termed) Fiqh provide lengthy information on jihâd. A remarkable example is the book entitled **Siyar-i-kebîr** and written by Imâm Muhammad Sheybânî 'rahmatullâhi ta'âlâ 'alaih', (135 [752 A.D.], Wâsit – 185 [805], Rey,) one of the highest disciples of Imâm a'zâm Abû Hanîfa 'rahmatullâhi ta'âlâ 'alaih'. A commentary to the book was written by 'Allâma Shams-ul-aimma Serahsî, and an annotation was written by Muhammad Munîb Efendi of 'Ayntab (today's Gaziantep in Turkey) and was printed in 1241. It is a huge book containing subtle pieces of information about jihâd.

The fifth way of kesb is hidmat (service). Yûsuf 'alaihis-salâm' was one of the highest Prophets called 'Anbiyâ-i-ulil-amr-i-wa-l-ebsâr'. When he saw that the slaves of Allâhu ta'âlâ (people) were in serious trouble, he brushed aside his own greatness and went to the president of the time's government and applied for a duty in the civil service, although he knew that the president was a disbeliever. Thus he served people. Then, if a person knows that he will be of service to the slaves of Allâhu ta'âlâ and sees that there is no one else to do the service in question, then he should apply for that service in time to beat a cruel person to it so that you will (both) serve Muslims (and protect them against cruelty), even if the service you apply for is supervised by a disbeliever. A vacant job, such as one for an imâm, a muftî, a preacher, a teacher or a policeman, should be applied for. Even if doing any good were out of the question, it would still be an act of worship at least to intercept a harm directed against Muslims. For that matter, it is not permissible to resign from a position.

Kesb increases property. But it does not increase one's rizq (sustenance). Rizq is muqaddar (predestined, foreordained). Because human beings are **mushawwash-udh-dhihn** by creation, they have been commanded to do kesb. Rizq is not dependent on payment, property, or working. However, it is necessary to work.

For, the ef’âl-i-ilâhiyya become manifest under the causes. This is the ’âdat-i-ilâhiyya (the way whereby Allâhu ta’âlâ has decreed to create things, actions, doings, events, etc.). However, sometimes the fi’l does not take place althogh the cause tried has been obtained. And sometimes, on the other hand, it does take place without the causes.]

’Abdullah bin Mes’ûd ‘radiy-Allâhu ’anh’ states: A person who does not know how to sell and buy, i.e. how to do trade, will eat food obtained by way of fâiz (interest, usury). Imâm Beghawî (Muhyissunna Husayn bin Mes’ûd) ‘rahmatullâhi ta’âlâ ’alaih’, in his book entitled **Mesâbîh**, provides the following information on the authority of ’Abdullah ‘radiy-Allâhu ’anh’, the son of the great Sahâbî, Hanzala ‘radiy-Allâhu ta’âlâ ’anh’, renowned with the epithet ‘ghasîl-ul-melâika’: Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ stated: “**To obtain something worth one dirham of silver by way of fâiz** (interest, usury) **knowingly is more sinful than thirty acts of fornication**.”

Property is the Believer’s helpmate. Work, and earn by way of halâl! You live in such a time that, if you become needy you will have to earn by giving away your faith. To avoid earning by giving away one’s faith, it is necessary to work for a living. It was stated in a hadîth-i-sherîf: “**Eat by your labour and by the sweat of your brow. Do not eat by selling your faith**!” Another hadîth-i-sherîf reads: “**Allâhu ta’âlâ loves a person who works and earns mindfully of halâls and harâms**.” It was stated in another hadîth-i-sherîf: “**If a person gains possession of something that is harâm for him, be it is worth a dirham of silver, he will be made to stay in Hell for twenty-five thousand years**.” The following statement has been borrowed from the book entitled **Muhît**[1]: “If a person starving to death finds a dead dog and mutton that belongs to someone else, either one of them would be harâm for him to eat. However, he should prefer eating the dog instead of eating someone else’s property. If the dog did not exist, he would be permitted to help himself to the other person’s property only at subsistence level. It was stated in a hadîth-i-sherîf: “**There will be a time wherein people will live only to obtain property and money, without considering whether things come to them by way of halâl or harâm**.” Then, every Muslim should think whether something he is to obtain is halâl or harâm, and refrain from taking it if it is harâm.

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[1] It was written by Shams-ul-aimma Abû Bakr Muhammad bin Ahmad Serâhsî of Turkistan ‘rahmatullâhi ta’âlâ ’alaih’, (d. 483 [1090 A.D.].)

When he gains possession of something, he should think of how he could pay people's rights from it and how he could help poor and destitute people. For, good people are those who do good to others, and bad ones are those who harm other people. One should be contented with what one earns and what Allâhu ta'âlâ has allotted to his share. "**He who is contented will be satisfied**," it was stated. Allâhu ta'âlâ has placed five things in five other things. A person who picks (any one of) these five things will obtain what is in it: He has made dignity and honour dependent on worship; abasement and misery dependent on sinning; knowledge and hikmat dependent on not eating much; grandeur and respectability dependent on performing namâz at night; and richness and not needing others dependent on contentment.

It is stated in a hadîth-i-sherîf, which exists in **Bukhârî**: "**The best and the most useful food that a person consumes is the food that he earns with his wrist. Dâwûd** (David) **'alaihis-salâm', one of the Prophets of Allâhu ta'âlâ, ate the food that he earned by the labour of his hands**."

As is related in the book entitled **Tadhkira-t-ul-Awliyâ** and written in the Persian language, some people told Ibrâhîm Adham 'quddisa sirruh' about a young man worshipping in ecstacies day and night. He visited the young man and stayed with him as his guest for three days. Observing the young man closely, he saw that the man's states and manners were even more unusual than they had been rumoured to have been. He marvelled at the young man's sleepless and enthusiastic piety versus his own oblivious nonchalance. He wanted to know whether the man was a sheer vanity misguided by the devil or a true worshipper. When he turned his attention to the man's food, he saw that the food was coming to him through ways that were not halâl. He said to himself, "Allâhu ekber, all these zealous and pious manners of this young man are being prompted by the devil," and invited the man to his place. When he served the youngster some food of his own, an abrupt change took place in his behaviour, all his zeal, willingness and readiness to worship being gone completely. When the youngster asked Ibrâhîm what he had done to him, he explained, "Your food was not coming to you by way of halâl. So, whenever you ate something the devil also entered your stomach. So, all your apparently zealous piety was being provoked. The food I offered to you comes by way of halâl. So, when you ate it the devil was no longer able to get inside. This state you are experiencing now is genuine." Eating

food that comes by way of harâm darkens the heart and makes it sick. The same book quotes Zunnûn-i-Misrî ‘qaddas-Allâhu ta’âlâ sirr-ah-ul’azîz’, (d. 245 [860 A.D.],) as having stated: “Four syndromes are symptomatic of the heart’s having been darkened: “The person involved will not take any pleasure from acts of worship. 2– Fear of Allah will not occur to him at all. 3– He will not take lessons from what he observes. 4– He will not comprehend when he reads and learns.”

Abû Suleymân Dârânî ‘quddisa sirruh’, [d. 205 [820 A.D.], Damascus,) stated: I would rather eat one morsel less of halâl food than perform namâz continuously from evening till morning. For, when the stomach is full the heart sinks into oblivion, and you forget about your Rabb (Allâhu ta’âlâ). If halâl more than enough is that bad, what could be said about those who fill their stomach with harâms? Sahl bin ’Abdullah Tusterî ‘quddisa sirruh’, (200 [815 A.D.] – 283 [896], Basra,) states: Our path is based on three essentials: Eating halâl food; adapting ourselves to the blessed Messenger (Rasûlullah) ‘alaihis-salâm’ in moral behaviour and in acts of worship; and **ikhlâs**, i.e. doing everything only to please Allâhu ta’âlâ. The book entitled **Risâla-i-Qushairiyya**[1] quotes Ibrâhîm Adham ‘quddisa sirruh’ as having stated: Eat pure and halâl food, and then (it will make no difference whether you) spend the entire night doing acts of worship or sleeping till morning, and spend all your days fasting or not fasting at all. (It goes without saying, at this point, that the ‘fasting’ mentioned in this context is ‘supererogatory fasting’; not the ‘compulsory fasting’ observed during the blessed month of Ramadân.)

It is stated as follows in the book entitled **Kimyâ-i-sa’âdat**: This world is a halting place for travellers whose destination is the Hereafter. Men need food and clothes at this place. And these things cannot be obtained without working. A person who tries only to earn property has been in the wrong. You should both make preparations for the Hereafter and earn your worldly needs. The latter part of this advice, however, should be taken as a means for making provisions for the journey to the Hereafter.

It is an act of jihâd to earn your and your household’s needs by way of halâl. It brings more thawâb (blessings, rewards in the Hereafter than do other acts of worship. One early morning

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[1] It was written by Abul-Qâsim ’Abd-ul-Kerîm bin Hawâzin Qushairî ‘rahmatullâhi ta’âlâ ’alaih’, (376 [986 A.D.] – 465 [1072], Nishâpûr,), and was printed in Egypt in 1379 [1959 A.D.].

Rasûlullah ‘sall-Allâhu ta’âlâ ’alaihi wa sallam’ and his blessed Sahâba were talking, when a strong youngster walked past them on his way to his shop. When some of the blessed Companions said that he would have been wiser to join them and learn a few things instead of going to work that early to earn a few worldly things, Rasûlullah ‘sall-Allâhu ta’âlâ ’alaihi wa sallam’ stated, “**Don’t say so! If he is going lest he should need others and lest his parents and family should become needy, every step he takes is an act of worship. If his purpose is boasting and luxury, the devil will keep him company**.” A hadîth-i-sherîf reads: “**If a Muslim earns by way of halâl and without sinking into a needy position and also helps his neighbors and relatives, he will be as bright and as luminous as the full moon on the Rising Day**.” Another hadîth-i-sherîf reads: “**A tradesman of high integrity will be among siddîqs and martyrs on the Rising Day**.” Another hadîth-i-sherîf: “**Allâhu ta’âlâ loves a Believer who practises a craft**.” Another hadîth-i-sherîf: “**The most halâl thing is what a craftsman earns**.” Another hadîth-i-sherîf: “**Engage in trade! Nine-tenths of rizq is in trade**.” Another hadîth-i-sherîf: “**If a person lets himself sink into a position to ask for alms from others, Allâhu ta’âlâ will degrade him so distressingly that he will be in seventy different kinds of need**.”

[Let enemies of religion feel shame against these hadîth-i-sherîfs! Let them desist from their attempts to misguide the younger generations with casuistries such as “Islam has prevented us from trade, from arts, from improvement of individual’s productive capacity, and from making progress in the field of economy!”]

Îsâ (Jesus) ‘alaihis-salâm’ asked a person what his occupation was. When the person replied, “I am spending time practising acts of worship,” the blessed Prophet asked again: “Whence are you eating and drinking?” When the latter said, “My brother meets all my needs,” The great Prophet stated: “Then, your brother has been performing an act of worship more valuable than yours.”

’Umar ‘radiy-Allâhu ’anh’ states: “Work and earn! Do not say that Allâhu ta’âlâ will send your rizq without your working! Allâhu ta’âlâ does not shower bills and coins from heaven.” Luqman Hakîm gave his son the following advice: “Work and earn! People who do not work and who thereby need others’ support are devoid of religious and mental adequacy. Not only are they deprived of doing good to others, but also others will insult them!” A great Islamic personage was asked: “Who is higher: A tradesman of high integrity, or a worshipper who performs namâz

throughout the nights and fasts during the days?” He replied: “The trustworthy tradesman is more valuable, because he performs jihâd against the devil at all hours of the day and night. The devil relentlessly tries to beguile him in buying, in selling, and in weighing, and he patiently observes the commandment and grace of Allâhu ta’âlâ.” ’Umar ‘radiy-Allâhu ta’âlâ ’anh’ states: “I prefer dying during buying and selling and earning by way of halâl to any other way of death.” They asked Imâm Ahmad bin Hanbal ‘rahmatullâhi ’alaih’ what he would say about a person who performed acts of worship in a mosque from morning till evening and expected Allâhu ta’âlâ to somehow send him his rizq. He replied, “That person is ignorant. He is quite unaware of Islam. For, Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ stated: ‘**Allâhu ta’âlâ has placed my rizq on the point of my bayonet**.’ He meant, ‘My rizq reaches me by way of war, which I have been conducting against the unbelievers attacking Islam and Muslims.’ ” As is seen, the ghanîma obtained from the enemy in a war and the wages received by people who make preparations for war during peacetime are rizq that is halâl. Imâm Awzâî saw Ibrâhîm Adham ‘rahmatullâhi ’alaihimâ’ carrying a bundle of firewood on his back. He said, “Why are you tiring yourself with such heavy work? Your brothers will not let you need anything.” “Don’t say so,” replied Ibrâhîm Adham ‘qaddas-Allâhu ta’âlâ sirrah-ul-’azîz’, and quoted the following hadîth-i-sherîf: “**Paradise is wâjib for those who suffer hardships during their efforts to earn by way of halâl**.”

Question: Our Prophet ‘sall-Allâhu ’alaihi wa sallam’ stated: “**I was not commanded to be a tradesman and hoard property. I was commanded to make tasbîh of my Rabb** (Allâhu ta’âlâ) **and prostrate myself before Him! I was commanded to worship my Rabb till death**!” Doesn’t this hadîth-i-sherîf show that worship is better than earning property?

Answer: If a person is well-to-do enough to meet his and his household’s needs, it is more thawâb (productive of rewards in the Hereafter) for him to spend his time performing acts of worship than earning money. It is not thawâb for those who are not in need to try to earn property. In fact, to do so would mean to attach one’s heart to worldly advantages, which, in its turn, is the sire of all sins. By the same token, it is better for people who receive a salary for their service not to do extra work to earn property, no property as they may have. For instance, if the State or other benevolent organizations or charitable people meet, unasked, the needs of men of knowledge, Islamic scholars, doctors, officers, and experts

of tasawwuf, i.e. people whose hearts have been opened so as to perceive spiritual facts, it is better for these people to help and guide other people instead of earning property. If time changes to the worse, so that such people will not be given anything unless they ask and bow their head, it is better for these people also to work for their living. For, it is harâm to ask (for money, etc.). It may be mubâh (permissible) in case of a darûrât. If a person is watchful of halâls and harâms as he earns property, i.e. if he does not forget about Allâhu ta'âlâ throughout his business interactions, kesb (earning by way of halâl) is better for him. For, the gist, the essence of all acts of worship is to keep Allâhu ta'âlâ in one's heart. At this point we end our translation from the book entitled **Kimyâ-i-sa'âdat**.

It is stated as follows in the book entitled **Hadîqa**, in its section dealing with economy in deeds: "Kesb means to work in order to earn the necessities of life in a way that is halâl. It is fard to earn, by way of halâl, as much as necessary for one's living, for the living of one's household, and for the payment of one's debts. A person who works for this purpose earns plenty of thawâb, too. And one who does not, without an 'udhr, (a good reason not to do so,) will be subjected to torment (in the Hereafter). People entitled to a man's support are his **'iyâl** (or 'ayal). It is farz (or fard) to pay one's debts. If a person dies in debt, he will not be sinful if he has been intent on paying them. It was stated in a hadîth-i-sherîf: '**After the performance of daily five prayers of namâz, it is farz for each and every Muslim to work and earn by way of halâl**.' All Prophets 'alaihim-us-salâm' worked for a living. A person who sits idly in a mosque instead of working and then says, 'I put my trust in Allah,' should not be believed. That person is committing a sin by not working. He is not a pious (sâlih) Muslim. He is a sinner (a fâsiq Muslim). His heart is attached, not to Allâhu ta'âlâ, but to His slaves' property. We were commanded to first adhere to the causes and then expect the effect of the causes from Allâhu ta'âlâ. After having earned as much property as one needs, it is permissible to engage in acts of worship instead of working. Therefore, people who worship instead of working should not be looked on with pessimism or in a prying attitude. Both of them are harâm. It is mubâh (permissible) to work more than one needs to and to save one's earnings for years. It is mustahab to dispense them as charity instead of saving them. Doing so yields more thawâb than does supererogatory worship. It was stated in a hadîth-i-sherîf: '**The best of people are those who do good to people**.' It is harâm to

earn more than needed for vaunting and vainglorious motives.” As is seen, there is much more thawâb in working and earning by way of halâl in order to meet the needs of your household and to pay their debts than the thawâb to be earned by way of supererogatory worship. It was stated as follows in a hadîth-i-sherîf, which exists in the hundred and fifth [105th] page of the book entitled **Râmûz-ul-ahâdîth**:[1] “**Poverty is happiness** (a blessing) **for my Sahâba. And wealth will be a blessing for my Umma** (Muslims) **who will live in the latest time**.”

Abdullah Dahlawî ‘rahmatullâhi ta’âlâ ’alaih’, a true Islamic scholar and a great Walî, states as follows in his eighty-eighth letter: “It is very good to work and earn halâl property in order to meet the needs of one’s household, to support the poor, and to serve Islam. (Prophet) Suleymân ‘’alaihis-salâm’ and ’Uthmân the Emîr-ul-Mu’minîn and ’Abd-ur-Rahmân bin ’Awf and some other Sahâbîs were very rich people. Their wealth did not discredit them in the view of Allâhu ta’âlâ. There is not a consensus among Islamic scholars on which of the two groups embodies higher people: the faqarâ-i-sâbirîn (people who endure poverty with patience), or agniyâ-i-shâkirîn (people who are grateful that they are wealthy). Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ chose poverty for himself. ‘**My Rabb** (Allâhu ta’âlâ) **gives me food and drink**,’ he would say. If poverty prevents worship and service, then it is better to be rich so that you will have the energy to perform acts of worship. Richness of this sort is a great blessing. Allâhu ta’âlâ bestows this blessing on anyone He chooses.”

[A Muslim works and earns not because he is fond of worldly advantages, but because Allâhu ta’âlâ commands to work and earn. What is symptomatic of fondness of worldly advantages is to work and earn money for the purpose of obtaining the evil desires and pleasures of one’s nafs, to see no difference between halâl and harâm as one works for that purpose, to infringe on others’ rights, not to pay one’s debts to them, to flout the laws, and not to pay one’s taxes. Fondness of worldly advantages is a grave sin. It is an act of worship that yields plenty of thawâb to work hard and to earn much because it is a commandment of Allâhu ta’âlâ, and to spend one’s wealth, which one has earned by working in order to obey His commandment, at places and in manners commanded by

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[1] This book of hadîth-i-sherîfs was written by Ahmad Ziyâ-ad-dîn Efendi ‘rahmatullâhi ta’âlâ ’alaih’, (1235, Emîrler, Gümüşhâne – 1311 [1893 A.D.], Istanbul.)

Allâhu ta'âlâ.]

It is stated as follows in the two hundred and sixty-seventh [267] page of the second volume of the book entitled **Hadîqa**: "As it is harâm to ask for something unless there is a darûrat, (i.e. a strong necessity defined by Islam), likewise it is harâm to untilize someone else's labour without payment. It is even more gravely sinful to exploit the labour of someone else's child or slave. 'Abdullah ibn 'Abbâs is quoted to relate the following event in the book (of hadîth-i-sherîfs) entitled **Muslim** 'radiy-Allâhu 'anhumâ': (As a child) one day I and some other children were playing, when, all of a sudden, Rasûlullah honoured the place. I hid behind the door. He came near me and, giving my back a little stroke, said, '**Go and call Mu'âwiya for me**.' According to this hadîth-i-sherîf, it is permissible for children to play in a manner that is not harâm, for elders to rely on children on errands such as calling someone and doing other trivial services. It is permissible to utilize one's own small children or grandchildren in some services in case of poverty or for the purpose of training them. It is wâjib for a child to serve its father."

If it is harâm for a certain person to ask for alms from someone else, it is also harâm for them to ask for zakât. (Please see the first chapter for 'zakât'.) According to a consensus (of Islamic scholars), it is permissible to ask one's debtor to pay his debt. The same rule applies in a rich creditor's asking his poor debtor to pay his debt. However, it is wâjib for him to wait until the poor debtor becomes capable of paying his debt. In fact, writing off a debt of that sort is productive of more thawâb. Men of religion, hâfizes, those who carry on physical, verbal and/or written jihâd against the enemies of religion, and statesmen and judges who protect the property, lives and rights of Muslims have the right to get money or property enough to live on from the Beyt-ul-mâl. It is permissible for them to demand this right of theirs.

Housework is a woman's charity and free gift to her husband. It brings her plenty of thawâb. The wife would not be sinful for declining to do housework, if she did so. The husband could not force his wife to do housework. In fact, he would have to hire a domestic (female) servant. A woman should not grudge this charity to her husband, who in turn would never be too charitable to please her with gifts in addition to providing a living for her. Allâhu ta'âlâ loves charitable people. Since the time of our Master, the Messenger of Allâhu ta'âlâ 'sall-Allâhu ta'âlâ 'alaihi wa sallam', the Muslim women have been doing this kindness to their

husbands. A (married) woman has two duties: Conjugal duty; and not to go out without her husband's permission and/or without covering herself in a measure prescribed by Islam. Hence, neither housework nor outdoor work or earning money has been enjoined on the woman. Everything she needs has to be earned and brought to her by her husband if she is married, by her father if she is not married, or by her rich next of kin if she does not have a father or if she is poor. A woman without anyone to support her is to be cared for by the State's charity coffers termed **Beyt-ul-mâl**. In Islam the struggle for living, i.e. earning money, is not a duty shared between a married couple. A man can never force his wife to work in the field, in a factory, or elsewhere. If a woman wants to work and her husband allows her, she may work at a job for women without mixing with men. What she earns, however, is her personal property. The man cannot force her to share it with him. Nor can he oppress her to buy her own needs. Islam's conferring so much latitude on the woman, and saving her from being a slave or a plaything in the hands of men, shows how highly Allâhu ta'âlâ values her.

Earning money should not cause a person to commit harâms or to miss any prayer of namâz, men and women alike. Rizq, which was foreordained in the eternal past, never changes. That very rizq reaches everybody, by way of halâl to those who wish to get it through halâl, and by way of harâm to those who want to earn it by committing harâms. The ignorant are wrong to say, for instance, "In this time my daughter will starve if she does not work," or "My son will lose his job if he does not practise usury." The statement that one should not earn by committing harâms should not be construed as "One should sit idly and not work at all." It means that one should work and earn by way of halâl. Not only will a person who earns by way of harâm have committed many harâms, but also his earnings will provide him no benefits. His earnings will either be spent for medical treatments or judicial procedures or go into the possession of his enemies, not to mention the likelihood that they will be squandered for committing harâms, and thereby he will end up in perdition. A person whose earnings are dubious should give and take presents and receive loans, and spend what he thereby obtains (in buying his needs). Things that are obtained by exchange of gifts and by loaning are halâl.

The following passage has been cited from the final part of the booklet entitled **Bey' ve Şirâ Risâlesi**: "An orphan boy's labour

can be utilized gratis only by his mother. If a discreet boy's walî (guardian) entrusts him to the care of a teacher or artisan and says, 'Teach him, and let him serve you,' the teacher or the artisan may make the boy do some petty work. [A walî who teaches the boy knowledge and manners is equivalent to his teacher.] However, this permissibility is conditional on that the current fee for the service benefited from the boy, e.g. the price of carrying water from the district fountain, should not be over the price of tutorship, and the boy's service should have been consented by the walî. The same rule applies when a person over the age of discretion and puberty comes and says, 'Teach me, and I'll serve you in return.' Please see the twenty-sixth chapter of the third part of **Seâdet-i ebediyye**! A child can be made to do light work by the adult who is its walî (guardian) in matters concerning its person and its property, i.e. by its father; by the father's wasî (executor) in the absence of the father; by its grandfather in the absence of the father's executor, either; by the grandfather's executor in the absence of the grandfather, either; and by the judge if this finally cited adult does not exist, either; and in all these cases the child has to be paid. The amount paid may be spent only for the child." A woman cannot be a walî (guardian).

I'm from the land of the beloved; this transitory halt's not for me.
I'm infatuated by that Real Estate; this world's not for me.

I've ridden all my personality, love is all my entity;
To the friend I've sold all my nafs; what's my business with that enemy!

I've made a doctor of my own love, and cares of love my remedy;
I've seen 'Abd-ul-Hakîm, let Ionian be far away from me!

I've tasted the ma'rifa, and I've attained the throne of Fanâ;
I've become Sultan of hidden values; world's riches are not for me.

Whatsoever comes is welcome, for it comes from the beloved's treasury;
Since all these are His deeds, what's the point in expecting malignity!

With time, turning; decrepit as my body is in dignity;
My soul's in its gilded youth, what has youth or old age to do with me!

I've held beloved, for me, plenty; turning down all other amity;
A loner in society; what's for me among humanity!

With myriad envoys running between hearts, the tongue'd be in futile flurry;
As hearts with each other commune, tongue among them is an oddity.

Now! From all creation I'm in isolation; it's true, definitely!
With the Creator of all beings, what good are time's people for me?

Allâhumma yâ muhawwil-al-hawli wa-l-ahwâl
Hawwi-l-hâlanâ ilâ ahsan-il-hâl!

O, Thou, my Allah, who changes all people's states!
Bless us with good states!

29 – BEY' and SHIRÂ
(Buying and Selling)

Men need one another and have to live together. Were it not for bey' and shirâ there would not be any order on the earth. In Islam transactions of bey' and shirâ run on a supply-and-demand basis. Islam is respectful of the individual's economic freedom. It promotes private enterprise and investments. This commercial bedrock of rules commanded by Allâhu ta'âlâ and the politico-economic regime called socialism, the dipsomaniacal brainchild of a Jew named Karl Marx, are poles apart. The liberal economic system followed by the states of the free world approximates more closely to Islam's economic rules. The economy as taught by Islam neither has to do with the Marxist socialism, which totally rejects private enterprise, nor is it Adam Smith's liberalism, which categorically prohibits the state from interfering with the economic life. Since (in Islam) the state holds a monopoly in organizing and arranging the compulsory kinds of charity termed 'ushr, kharâj; zakât and jizya collected by civil servants called 'âshir; in setting fixed prices on some commodities, and in collecting and spending the other types of revenue due to the Beyt-ul-mâl; the Islamic economy is not a liberalism at large. It is an immaculate set of rules that sponsors the best possible avenues for private enterprise and nurture a social justice wherein individuals are administered their rightful shares from the national income.

Someone inquired of Imâm a'zam Abû Hanîfa 'rahmatullâhi 'alaih': "I want to spend my life worshipping. Please write something for me, and I will always be practising it!" When Imâm a'zam wrote the teachings about buying and selling, the man said: "This information is necessary for tradesmen. I shall stay at home and busy myself with worship." The great scholar said: "Is there anyone who will not need food and clothes? A person who does not know the buying and selling part of Islamic rules will never be safe from food that is harâm, and someone who consumes food that is harâm will not get any thawâb for his acts of worship. His efforts coming to naught, his only gains will be torment and disappointment." It is stated in the book **Bezzâziyya**: "If a person has not learned Islam's teachings on buying and selling, it is harâm for him to engage in trade. Imâm Abullays 'rahmatullâhi ta'âlâ 'alaih' said so, too. When Imâm Muhammad Shaybânî 'rahmatullâhi ta'âlâ 'alaih' was suggested to write a book on zuhd,

he said that Islam's teachings on buying and selling would do in the name of zuhd." (Zuhd means abstinence from most of [Islam's permissions termed] mubâhs for fear of falling into doubtful practices.)

'**Bey'**' means 'sell'. '**Shirâ**' means 'buy'. Bey' and shirâ, in Islam, is a transaction in which two people willingly exchange the property they possess with each other, in a manner termed **temlîk**; its equivalent in English is '**sale**'. If a person says to Zeyd and 'Amr (two different people), "I have sold this property of mine to you (plural) for a thousand kurushes (a unit of Turkish currency)," and if only Zeyd accepts it, the sale will not be sahîh (valid). [Sale advertisements in newspapers or on the radio (or on television or on websites) are not sales. The sale (bey') becomes valid (sahîh) when the customer visits the place of sale and buys the property on sale.] I herein present the Hanafî Madhhab's teachings on matters of sale and all other areas of transaction. If a person indispensably needs a certain kind of property, it is wâjib to sell him/her that property. For a sale to be sahîh the customary exchange of words that are termed **îjâb** (proposal) and **qabûl** (acceptance) among tradesmen must have been pronounced and the exchange of units of property must have actually taken place. Of the buyer and the seller, the one who precedes in expressing their approval of the sale has done the **îjâb** (proposition), and the other party has done the **qabûl** (acceptance).

'**Mâl**' (property) means an 'ayn, i.e. a substance, an object, that you desire and which you can preserve to utilize whenever you need to. A grain of wheat is not property. For, no one will preserve it. A free human being, any part of a free human being, the carrion of an animal that died of itself, with the exception of fish and locusts, blood, and soil or water at its natural place are not property. Leeches, as well as soil and water that have been taken away from their places, are kinds of property.

'**Mulk**' (possession, property with an owner or owners) means something that you own and which you have the right to use without having to receive someone else's permission. This thing may be either some property itself or its benefits and not the property itself. Every sort of property a person owns, [e.g. their horse,] is their mulk (possession). However, not every mulk possessed by a person, such as a tenant's residence, [or the right to use a certain machine,] is their own property.

Mâl (property) that is **mutaqawwim**, i.e. **property valued**, is

property that is mubâh (lawful, permissible, permitted) and possible to use. For Muslims, wine, swine, an (edible) animal jugulated without saying the Basmala, (i.e. without saying, 'Bismillâhirrahmânirrahîm',) an animal killed without jugulation, fish in the sea are not **property valued**. A grain of wheat possesses value, yet it is not property.

For a bey' (sale) to be sahîh, both the items of property to be exchanged have to be mutaqawwim (valued).

Property that is possible to move from one place to another is termed '**menqûl**' (movable). Trees and buildings on an area of land categorized as waqf or mîrî land are categorized as movable property.

Gold and silver in lumps and coins printed for pecuniary purposes are called '**naqd**', '**naqdeyn**', or **nuqûd**. Of the nuqûd with more than fifty-per-cent gold or silver, the ones with the most amount of gold or silver are called '**jeyyid**' (excellent), and those with lesser amount are called '**zeyf**' (plu: **zuyûf**). Articles made of gold or silver are not naqd.

There are five types of property in respect of the unit of measurement: Property that is measured by weight, by volume, by area of surface, by length, and by number.

'**Mekîl**' means property measured by bushels or other units of capacity, i.e. by volume. Wheat, barley, dates, and salt are always mekîl. That they are being treated by weight today does not change the fact that they are mekîl. In cases when equality is the crux of the matter, they must be equal in capacity.

'**Mevzûn**' or 'veznî' means property measured by weight. Gold and silver are always veznî. Property other than the aforesaid six kinds is mekîl or mevzûn depending on customary practices. The manner of measurement customarily practised in the markets is the rule.

When there is '**qadr**' in a sale, both the items of property that are (to be) exchanged are mekîl or both of them are mevzûn.

'**Jins**' (genus) is a common name given to a category of things whose areas of use do not differ much. The camel is a genus belonging to the animal kingdom. A cross-bred Bactrian camel is a species of that genus. Property whose basis or source is different or which is utilized in quite a different situation or which has gone through such permutations as have changed its name, belongs to another genus. Beef and mutton are two different genuses (**jinses**), and so are pairs such as hair from goats and wool from sheep, and

also bread and flour. Meat and milk from goats, however, are in the same genus each as those from sheep.

Property is either '**mithlî**' or '**qiyamî**'. A person who spoils (someone else's) mithlî property will have to pay its likeness in compensation. If it were qiyamî property the guilty party would have to pay its value. Mithlî property is property whose likeness with identical characteristics exists in the markets without varying prices. In this category are items that are measured by weight, by capacity or by length and which are manufactured in factories or workshops, and those that are measured by number and which are of the same size. Eggs, and water melons of identical size, are examples of them.

Kinds of money, with the exception of gold and silver, are called '**fulûs**'. These pecuniary items, such as coins made of other metals and paper notes, are mithlî property like naqd as long as they are in circulation. If they are not being used as currency they are qiyamî property, and so are those which are in circulation when they are used with that intention. In either case, they are measured by [weight or by] number, i.e. by counting, depending on customary practices.

'**Qiyamî**' property, i.e. that which is not mithlî, is property whose likeness either does not exist in the markets, or exists with various prices. Among the examples are some kinds of things that are measured by length, such as fields and hand-woven tissues and carpets, clothings, shops, handwritten books, and water-melons of divers sizes. Movable qiyamî property, with the exception of animals, is called '**urûz**', (or urûd). Copper saucepans and mithlî property mixed with other genuses are urûz.

Property is either '**'ayn**' or '**deyn**'. The lexical meaning of **'ayn** is 'substance', or 'object'. In the knowledge of bey' and shirâ, however, it means (a) certain (item of) property. In the register of bey' and shirâ (buying and selling), each and every individual item of qiyamî property, such as a certain house, a certain horse and a certain chair, or all of a present and shown number of them, or a separated part of them, as well as all of a present and shown number of items of mithlî property, or a separately shown part of them, or a not separated but determined amount of them, or a certain item of property that is kept at a stated place separately and in isolation from its likenesses and whose genus is known, although it is not present (at the place of sale); all these things are called **'ayn**. The place where it is kept can be a sack, a chest, a room, a house, or a city. If the buyer knows the property kept in

one of these exemplified places, and if it is in one of the first three although the buyer may not know the property, it is called **'ayn** property. A heap of wheat seen is 'ayn, and so is an amount of money seen. The latter one, i.e. the money, is deyn when it is the themen (price). '**Deyn**' is the debt to be paid in consequence of a sale or lending or for some other reason. In buying and selling, any property that is not present and the separate place of which, if so, has not been stated, or an item of qiyamî property that has not been separately shown, present as it may be, is called '**deyn**'. A qarz (loan) borrowed is a deyn. However, not every deyn means a 'loan borrowed.'

(Making) '**ta'yîn**' of an item of property means the item's being an **'ayn** during the mutual agreement (of a sale).

(An item's) having (the attribute of) '**ta'ayyun**' means its remaining an 'ayn and not turning into a deyn when it is made ta'yîn of, during the mutual agreement. When an item of property has ta'ayyun, that item itself, (nothing else in lieu of it,) has to be given. The buyer cannot be forced to accept its likeness, be it a better one. If he accepts it of his own volition, the sale will have been renewed by way of a kind of sale termed '**muqâyada**', (which will be defined several paragraphs ahead.) If the property perishes before delivery, the sale becomes 'fâsid', (which also will be defined further ahead.) If the property that has perished does not have (the attribute of) 'ta'ayyun', the sale will not become fâsid. For, its likeness of the same genus, amount and characteristics can be given in lieu of it.

'**Ribâ**' or '**fâid**' (or fâiz) in a certain sale means there being 'qadr' in it, or the items to be exchanged being of the same genus. An exception to this rule is a sale in which gold and/or silver is exchanged for other veznî property, (i.e. property that is measured by weight.) On account of this exception, 'fâid' does not take place in selling a certain item of property in return for money. When either or both of the conditions of 'fâid' exist in a certain sale, the sale has to be done in a manner where the exchange of items of property take place on the spot. If one of the items is to be paid later, it is harâm. When gold and silver are taken possession of after the mutual agreement and before the two parties depart, their payment has been done on the spot. Other kinds will have been paid on the spot when they have (the attribute of) ta'ayyun. The sale will be permissible also when only one of the items of property is an 'ayn. But in this case the one that is a deyn must be made the price of the sale and must be taken possession of (by the

seller) before the two parties depart. If both the two conditions of fâid exist in the sale, not only does it have to be a sale wherein the exchange of the two items of property is (virtually) accomplished on the spot, but also their amounts must be equal. Please see the ninth, the tenth, the eleventh, the twelfth, and the thirteenth paragraphs counted in backward order from the end of this chapter!

Mebî' means property (to be) sold. When the mebî' is made ta'yîn of, it assumes (the attribute of) ta'ayun, (i.e. it remains an 'ayn and does not turn into a deyn.)

'**Themen**' (price) means the item of property that is to be given in return for the mebî'. Gold and silver were created so as to serve as the themen. They are themen, regardless of the state they are currently in. Gold and silver in the state of coinage or lumps will not assume the attribute of ta'ayyun when they are made ta'yîn of; nor will coins made of other metals or paper bills. Finished articles of gold and silver and demonetized metal coins and paper bills and other items of property that have been made themen will have (the attribute of) ta'ayyun when they are made ta'yîn of.

[It is stated as follows at the end of the book **Hadîqa**: "When the themen or money is made ta'yîn of, it will not have ta'ayyun in sale agreements that are sahîh (valid). In other words, it is not compulsory to give the item designated during the agreement. Its equivalent or likeness may be given. However, it will have ta'ayyun in sale agreements that are fâsid as well as in the (kind of) sale termed '**sarf**', (which will be defined later in the text.) It will not have ta'ayyun in mahr (gold, silver, paper notes or any other property or any other sort of benefit that a man has to pay to the girl or woman he is to marry), in nazr (vow), and in assigning a deputy. It will have ta'ayyun in cases such as amânat (entrusting), hiba (gift, donation), sadaqa (almsgiving), shirket (joint-ownership, company), mudâraba (a kind of commercial cooperation), and ghasb (extortion). The mebî' will always have ta'ayyun.

Supposing the genus of the themen is not pronounced during the agreement of a certain sale and thereafter a themen that is harâm is paid, or a themen that is halâl is pronounced or a themen that is harâm is pronounced but not shown and thereafter a themen that is harâm is paid; in all these cases the mebî' will be halâl. If a themen that is harâm is shown during the agreement and thereafter that same themen is paid, the thing bought will be harâm; it will be the **mulk-i-khabîth** (of the buyer). Because an extorted item of

property or one that is called **vedî'a**[1] has to be made ta'yîn of when it is sold and it has the attribute of ta'ayyun, the themen received (in return for it) will be harâm. If the money extorted or entrusted for safekeeping is indicated and then some other money that is halâl is paid, or if a themen that is halâl is indicated, or not indicated, then the money that has been extorted or entrusted for safekeeping is paid, in this case the mebî' will be halâl."]

As the agreement is being made for any sale business, each of the two items of property is either an 'ayn or a deyn. If both the mebî' and the themen at a sale are a deyn each, the sale will not be sahîh (valid) even if they are taken possession of before parting. The '**aqd**, i.e. the agreement will be '**bâtil**', (whose meaning will be defined later in the text.) The kind of sale termed '**sarf**' is an exemption from this.

There are four different situations wherein either the mebî' or the themen is either an 'ayn or a deyn and in which the way of their being taken possession of vary; hence, four different kinds of sale:

1– **Mutlaq bey'** is a sale whereby property that is an 'ayn is sold in return for a deyn. That means to say that the mebî' has to be made ta'yîn of (in this kind of sale). The act '**qabz**', (i.e. taking possession of the property,) does not necessarily have to take place. The themen is not made ta'yîn of, (i.e. it is not designated.) The themen may be paid on the spot or afterwards. Because this type of sale is widely-known, it is briefly called '**bey**'. When the word 'bey' is seen alone, it should be construed as **mutlaq bey'**.

2– **Sale of sarf** means a sale whereby gold and silver in the state of naqd or finished articles are sold in return for each other. In other words, both of them are themens. Both of them can be 'ayns or deyns as the agreement is being made. Both of them have to be taken possession of before the seller and the buyer part.

3– **Sale by selem** is a sale wherein the themen is paid on the spot and the mebî' is delivered later. The themen has to be made ta'yîn of as the agreement is made and it must be taken possession of before both parties part. The mebî' is not made ta'yîn of or taken possession of. The mebî' that is absent or is not in the seller's possession is sold by way of **selem**.

4– **Sale of muqâyada** means to sell an item of property that is an 'ayn in return for another item of property which also is an 'ayn,

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[1] '**Vedî'a**' means property entrusted to the care of someone trusted. Please see the forty-second chapter of the first fascicle of **Endless Bliss** for 'mulk-i-khabîth'.

with the exception of gold and silver. An example of this is to say, “I have sold this two bushels of wheat in return for those hundred eggs.” It is compulsory to make ta’yîn of both items of property as the agreement is being made, yet it is not compulsory to take possession of them.

The market price of a mebî’ is its value. In other words, the monetary worth which connoisseurs of that property estimate for it is its value. This value is also called ‘**themen-i-mithl**’. The value on which the seller (**bâyi’**) and the buyer (**mushteri**) are mutually agreed is its **agreed themen**, or **purchase themen**, or **price**. Expenses such as transportation, labour, and the purchase tax added to the purchase price make up the **cost price**, or **prime cost**.

Of goods other than gold and silver, the non-mithlî ones such as clothes, houses, animals, fields and building plots are always mebî’ in a mutlaq bey’.

When the mithlî ones are made ta’yîn of as they are being exchanged for gold, silver or paper notes, they are mebî’. An example of this is to say, “I have sold you the wheat that I am keeping at such and such place and which measures so and so many bushels in return for such and such amount of gold.” If they are not made ta’yîn of, they will still be mebî’. Yet the sale will be one of **selem**. For instance, when you say, “I have bought such and such bushels of wheat for such and such liras,” it will be (a sale of) selem.

If mithlî goods are made ta’yîn of when they are exchanged for non-mithlî, i.e. qiyamî, property, they will be mebî’, and the sale will be one of **muqâyada**. An example would be to say, “I sell that horse for this heap of wheat,” or to say, “I have sold this heap of wheat for that horse.” In case mithlî property is not made ta’yîn of, (i.e. if it is not designated or specified,) either one of the following two situations arises: As the mithlî property is being pronounced, if one of such words as ‘for, in return for” is uttered before pronouncing it, it will be the themen (price in the sale). An example of this is to say, “I have bought this lamb for ten bushels of wheat.” If one of such words is not uttered, it, (i.e. the mithlî property,) will be the mebî’, and the sale is one of selem, e.g. saying, “I have bought ten bushels of wheat with this lamb.”

When two items of mithlî property are exchanged for each other, both of them will be the mebî’ (in the sale) if both of them are ’ayn, and the sale will be one of **muqâyada**. If one of them is made ta’yîn of, the sale will be one by **selem**.

Each of the aforedefined four kinds of bey' has six different sub-kinds:

1– **Bey' that is sahîh** is a bey' [sale] that is compatible with Islam both in essence and in quality.

2– **Bey' that is bâtil** is a sale that is incompatible with Islam both in essence and in quality.

3– **Bey' that is fâsid** is a sale that is compatible with Islam in essence, though its qualities run counter to those prescribed by Islam.

4– **Bey' that is makrûh** is a sale that has been polluted with something forbidden by Islam although it is suitable with Islam both in essence and in quality.

5– **Bey' that is mawqûf (or mevqûf)** is a sale that has been impured with someone else's right wrongfully appropriated.

6– **Sale by way of wefâ (or vefâ)** is a sale in which the buyer and the seller have the right to give up.

Now let us explain all these sales one by one:

1– **Bey' that is sahîh**. For being sahîh (valid), any kind of sale has to meet these conditions: The buyer and the seller must not be the same person; that is, it must not be a sale whereby the same one person, deputizing both the seller and the buyer, sells the commodity to himself; the seller and the buyer must be discreet; **'aqd**, i.e. the sale agreement, must be made; that is, one of the parties must make the **îjâb**, i.e. the proposal, and the other party must accept (**qabûl**) the proposal before they part; the mebî' and the themen must be items of property, and they must have value. It is written in the book **Bahr-ur-râ'iq** and in the chapter dealing with (the sale of) **Sarf** of the book **Durr-ul-mukhtâr** that the mebî' must be worth no less than the nominal value of a fels, (i.e. a coin of very small value.)

For a sale termed **mutlaq bey'** to be sahîh, there are other conditions to be fulfilled in addition to the aforesaid ones: the mebî', always, and the themen, in cases when there is fâid, must be made ta'yîn of; the amounts of the mebî' and the themen that are not present and are not shown during the bargaining must be stated; the mebî' must be present and in the seller's possession, and its delivery to the customer must be possible, and the genus of the themen must have been made known. In all sorts of sale, neither the buyer nor the seller necessarily has to have reached the age of puberty, nor do they have to be free people, and they do not have to be Muslims. Nor is it a condition to be fulfilled for the mebî' to

exist or to be present at the place of agreement. The mebî' has to be an 'ayn, and the themen must not be an 'ayn. To state the boundaries of an area of land means (to state) its size, amount. In case any one of these conditions does not exist, the sale will not be sahîh; it will be harâm.

When a bey' (sale) is sahîh, the themen becomes the seller's mulk (possession) by the time the agreement has been made. And the mebî' becomes the buyer's property. If the mebî' is not in the seller's possession at the time of agreement, the sale will not be sahîh, even if the seller purchases it afterwards and delivers it. Therefore, in situations where you are to sell a mebî' that you will deliver later, you should either prefer the (kind of) sale termed **selem** or accept the themen for safe-keeping without making an agreement and do the bargaining and agreement when you obtain the property you are to sell.

Kinds of sale such as the sale termed **berâât**, the sale of property due to the (men of religion called) imâms and khodjas, and the sale termed **Jâmakiyya**, are not permissible. '**Berâât**' means official documents that certify the kinds and amounts of the zakât and 'ushr that the zakât collectors called **'âmil**s are to collect from villagers. The property written on them does not exist. Unless the (men of religion called) imâms and khodjas take possession of their dues that exist in the (pious foundations called) waqf, they will not be the owners of those dues. Once the **ghanîma** has been transported to the **Dâr-ul-islâm**, it becomes the rightful due of the (Muslim) soldiers (who took part in the Holy War); yet it will not be the mulk (possession) of the soldiers before it is divided and dispensed; so it will not be permissible for the soldiers to sell their dues before they become their mulk. '**Jâmakiyya**' means cheques or bonds entitling you to the wages or stipends you are to get in return for your services. It is not permissible to sell them before taking possession of them. The wage is a right that has been deserved; yet it has not become your mulk since you have not taken possession of it. [Not only is it not your mulk, but also it is a deyn.] It is not permissible to sell a deyn in return for a ready payment to someone other than the debtor. It cannot be sold on credit to the debtor, either.

Ibni 'Âbidîn 'rahmatullâhi ta'âlâ 'alaih' states in his discourse on 'Option concerning a mebî' that has not been seen': "The sale of a mebî' that is not seen as the agreement is being made or before that, is sahîh. If the mebî' that is not seen consists of items of one genus and all the items are at one place, the bey' (sale) will

be permissible [when the mebî’ is made ta’yîn of, that is,] when its place is stated. Thereby, a major part of the attributes of the mebî’ will have been known. The few particulars that have not been clearly understood will be gotten right by **being muhayyer**, (i.e. by way of option).” It is stated in the book **Kasf-u-rumûz-i-Ghurer**: “For a bey’ to be permissible, the mebî’ has to be [made ta’yîn of; that is, it, or its place, has to be] pointed out. If the mebî’ itself or its place is not pointed out, the bey’ will not be permissible according to the unanimity (of Islamic scholars). At that, some other property with the same name must not be sharing the same place with the mebî’.” It is stated as follows in the book **Jawhara**: “In a sale called **mutlaq bey’**, the genus and the amount of the themen have to be stated and the mebî’ has to be made ta’yîn of as the agreement is being made. Unless these two conditions are satisfied, the bey’ will not be sahîh by only doing the îjâb (proposal) and qabûl (acceptance).” Shernblâlî ‘rahmatullâhi ta’âlâ ’alaih’ states as follows as he explains ‘being muhayyer (option)’ in his annotation to **Durer**: “If a mebî’ is not seen because it is enclosed although it is present, or because it is not present, the bey’ will not be permissible, according to the majority of scholars, when the mebî’ is made known by showing.”

[Coins minted of metals other than gold and silver are called ‘**fulûs**’. Formerly, copper coins of various weights were being used. ‘Fulûs’ is the plural form of the word ‘fels’ (in Arabic). One fels is ‘manghir’ in Turkish, and ‘**pul**’ in Persian. Today’s ‘pul’ is something different. It is inferred from the initial part of the forty-fourth chapter of the current fascicle that a fels weighs less than a centigram. The nominative values of the fulûs that are used as themens, i.e. their current values, are, like those of the currently used paper bills, are many times higher than their intrinsic values, and they always change. As Ibni ’Âbidîn ‘rahmatullâhi ta’âlâ ’alaih’, as he deals with fâid, cites from the book **Bezzâziyya**, formerly a hundred fels was worth around a dirham of silver. Since in the Islamic system of rules twenty mithqâls of gold or two hundred dirhams of silver is a value of property demarcating between poverty and richness, the value of gold that weighs one mithqâl is equal to the value of silver that weighs ten dirhams, and a coin of gold lira weighs one and a half mithqâls; these facts are stated in the chapter dealing with zakât, (i.e. in the first chapter.) Because a weight of ten dirhams is equal to the weight of seven mithqâls, the value of one mithqâl of gold is equal to the value of seven mithqâls of silver in the system of Islamic rules. Hence, the

nominal value of one fels, in (Turkish) kurushes as of today, is one-fifteenth the current value of a gold lira coin in (Turkish) paper lira bills. For instance, supposing the cheapest gold lira is worth, say, 30,000 lira in paper notes, the nominal value of one fels is 2000 kurushes. Hence, it is not permissible to sell an item of property that is worth less than 20 T.L. It is permissible, however, to round off so cheap an item to a quantity that will be worth (at least) one fels or to mix it with another genus of property and then make a sale by package deal.]

As we said earlier, the age and state of discretion is the only condition on the part of the buyer and the seller to be fulfilled for a bey' to be sahîh. Then, for a still stronger reason, a bey' made by a discreet person who has reached also the age of puberty will always be sahîh. A bey' made by a discreet child under the age of puberty will be sahîh if its walî gives the permission. Hamza Efendi 'rahmatullâhi ta'âlâ 'alaih' states as follows in the thirty-fourth [34] page of his (Turkish) book **Bey' ve Şirâ Risâlesi Şerhi**: "The twenty-third is this: If a discreet child asks for something for its own benefit, such as candy and fruit, it is not permissible to sell it to the child. For, it means that its walî did not give it permission to do so. If it asks for something such as salt and rice, it will be sahîh to sell it. For, it must be inferred that it is buying it with its walî's permission. It is permissible for this child to go shopping with its walî's permission. If the child has not reached the age of discretion, a sale it makes will not be sahîh even if its walî gave it permission. The father is the walî. In the absence of the father, the walî is the person appointed as the wasî by the father. In case that person is absent, too, the father's father is the walî. In the absence of this grandfather, the walî is the wasî appointed by this grandfather. In that wasî's absence, the walî is the qâdî, or the wasî appointed by the qâdî, [i.e. judge]. The child's mother, brothers or sisters or paternal uncles cannot be its walî. One of these people can be its walî only if the qâdî or one of its walîs appoints him or her its wasî. The child is discreet at the age of seven. When a boy at the age of twelve, or a girl at the age of nine, says that he, or she, is pubescent already, it must be taken for granted that their statement is true. When they are fifteen years old, they must be accepted to be pubescent, even if semen secretion or menarche has not occurred yet. A child between the ages seven and fifteen is described as a 'discreet child'."

There are seven kinds of mebî', that is, property for sale:

1– An 'ayn that is present. It is sahîh to sell it.

2– It is not present, but it is an 'ayn. In other words, it has been

made ta'yîn of, (i.e. it has been designated,) and its delivery is possible. An example of it is a building plot whose borders have been stated. Its sale is sahîh.

3– It is a mulk (possession). Yet its delivery is impossible. Examples of this kind of mebî' are an animal on the loose and lost property; their sale is bâtil.

4– It is not an 'ayn, although possible to deliver. The buyer does not know it. (To sell) it is fâsid. An example is to sell a sheep out of a flock. Another example of this kind of sale is one which would be harmful although the delivery would be possible, e.g. selling one of the pillars supporting a house.

5– It has been lent to someone. It is permissible to sell it only to that person and in return for an on-the-spot payment.

6– It has been granted to someone for an amânat (safekeeping), for an 'âriyat (for temporary use), as leasehold, as a pledge, or as an investment. It is permissible to sell it to that person, but then it must be taken back and delivered again.

7– The mebî' is in the buyer's possession for one of such reasons as extortion, theft, and treachery. It can be sold to that buyer. Redelivery is unnecessary.

There are eight kinds of money or property in the position of themen:

1– Lumps (or bars) or finished articles or minted coins of gold, or other metal coins or paper bills used in lieu of gold. They are always themens. There is never fâid as any kind of property is bought with them. The bey' may be fâsid. For that matter, to keep clear of harâm in the transactions of buying and selling, care must be taken lest the bey' made should be fâsid.

2– Lumps of silver, articles of finished silver, coins minted of silver, and other metal coins and paper notes are always themens.

3– Things measured by capacity. It is permissible to buy property with them by making the payment on the spot or afterwards, on condition that their genus, amount, and properties should be stated.

4– Things measured by weight. They are analogous to those measured by capacity.

5– Things measured by length. Of them, an area of land, a building plot, a fabric that is not mithlî can be used in buying something only on condition that the payment be made on the spot. With a fabric that is mithlî, the payment for the sale may as well be made afterwards.

6– Of countable things, those which are similar, [i.e. items of mithlî property,] are analogous to those measured by capacity.

7– Animals. To buy something in return for an animal is permissible only on condition that the payment be made on the spot. Items of qiyamî property such as animals, buildings, areas of land, slaves are never themens. When the themen is an 'ayn, the sale done will be a sale of muqâyada. An example of this is to exchange a designated horse for another designated horse or for a designated carpet. Both the items of property being mebî's, the sale thereby made is a sale of **muqâyada**. As is written in the hundred and fifty-fifth article of Alî Haydar Begh's commentary to Majalla, an animal will be a themen also in (the kind of sale termed) selem.

8– Buildings. Property may be bought in return for a building only if the payment is to be made on the spot; in this case the sale is a sale of **muqâyada**. Once the îjâb, that is, offer, has been presented, and the acceptance has been made before leaving the place where the offer has taken place, the agreement has been realized and the bey' has been accomplished. And once the agreement has been made the mebî' is the buyer's mulk (posssession). In case all or part of the themen (payment) is to be paid afterwards, the installments to be paid over the subsequent period of time is the seller's mulk the moment the agreement is made. They are the debt that the buyer owes the seller. All of them are added to the seller's calculation of the (amount of property that is termed) nisâb (and which is the demarcation line separating Islam's definition of poverty from that of richness whence on the payment) of zakât (becomes fard).

Both the **îjâb** (offer, proposal) and the **qabûl** (acceptance) must be pronounced in a language that will be understood by the second person and in (an expression which will show that the action has been completed, such as the tense that is called) mâdî shuhûdî (in Turkish and whose closest equivalent in the English language would be the present perfect tense); examples for the former are expressions such as "I have sold," "I have given," and "I have gifted," while the latter could be exemplified with the expressions, "I have bought," "I have accepted exactly (as it has been offered)," and "I have assented." When both the îjâb and the qabûl are made in the local vernacular and by using (its tense tantamount to) the mâdî (shuhûdî), the parties do not necessarily have to have made a niyyat, (i.e. intention to perform the transaction in progress.) In case one of them is pronounced in the mâdî and the other one is

pronounced in the hâl, (i.e. present tense,) niyyat on the part of the one who uses the mâdî tense is not necessary, and the bey' thereby performed will be sahîh. In this case niyyat on the part of the party who uses the present tense will be necessary. The party who makes the offer may give up, or change his offer, before the acceptance takes place. If the seller says, "Buy this," and the buyer replies, "(O.K.), I have accepted it exactly," the bey' performed will be permissible. It is essential that the item accepted be the same one offered and the mebî' and the themen be accepted in their entirety. In case the qabûl (acceptance) differs with the îjâb (offer), a new îjâb will be made. If the other party accepts it, a second agreement will have been made.

The agreement will have been made by a unilateral delivery as well as by way of a bilateral delivery, (termed **te'âtî**). If the seller says, "I have sold (you) this (item of) property for a thousand liras," it is permissible for the buyer to take it without saying anything. That is, the bey' will have been accomplished. If the seller gives the item and the buyer pays the money, the sale will be permissible without (any need for) an exchange of words.

If a person says to the grocer, "Please weigh (for me) three pounds of potatoes for three pennies a pound," and the grocer weighs them without saying anything, the agreement has been made; that is, the bey' has been performed.

If the customer gives the seller five liras and asks, "How much are you selling this wheat for?" and the latter says, "One lira a bushel," or if the former first learns the price and then gives the five liras and then asks the latter to sell him five bushels of it, and if thereupon the seller says that he will give it the following day, the agreement of bey' has been made. The following day he will have to deliver five bushels for one lira a bushel even if the price changes overnight. If the customer says to the butcher, "Weigh (for me) such and such liras' worth of that part of that lamb," or if he says to weigh all of it, and if the butcher weighs it, the agreement has been made. The customer has to pay the money. However, if he said, "Weigh (for me) such and such kilograms of that lamb," and if the butcher did as he was told to do, the agreement would not have been made unless the customer took possession of the meat or had it put into the container he had held out. For, the meat is not the same all over the lamb. In this case the customer has an option. If the buyer asks the seller, "How much is the firewood that this animal is carrying," and then the seller replies, say, "Ten liras," and thereupon the former says, "Drive it

to my place," the agreement of sale will not have been made unless the firewood is unloaded at the buyer's house and the themen is paid. For, neither the procedure of offer and acceptance has been gone through, nor has delivery taken place.

If a person says, "I have sold my property to so and so," naming someone absent, and one of the people who hear him goes to the person named and tells him, the sale will not be a permissible one. However, if the seller sends him someone and he accepts the sale, it will be a sahîh bey'. The man thereby sent is called '**Rasûl**', i.e. '**Messenger**'.

The sale talks have to be conducted seriously. Jocular remarks are not permissible.

It is not permissible to make the offer in the question form. If a person says, "Will you sell me this property for such and such price," and the seller replies, "O.K. I have (sold it to you)," the sale will not be permissible. Yet it will be sahîh if thereafter the buyer says, "I have accepted it." The sale will be sahîh when the talks are conducted in the simple or progressive present tense, such as, "I buy," "I am buying," "I sell," and "I am selling," or in the imperative form; yet in this case the parties will have to intentionally mean, "Now," as they make the offer and the acceptance.

The îjâb and the qabûl can be made not only by an exchange of words, but also by an exchange of letters, as well as by sending a man to each other. For instance, if a person writes a letter to another person, telling him that he has sold him a certain item of property he has, and the latter reads the letter and somehow, e.g. by sending a letter, lets the former know that he has accepted the offer, the bey' will be a sahîh one. A letter is equivalent to actual words in matters such as a sale, a lease, a gift, and (Islam's marriage contract termed) a nikâh. If a person writes to another person and says that he has bought a certain unit of property (in the possession of the latter person) and if the latter person reads it and says, "(O.K.) I have sold it (to you)," the sale will not have been accomplished. The former will have to write again and say, "I have accepted (the sale)." If the seller makes an offer and the customer accepts a part (of the property offered), the sale will not be sahîh. The seller will have to say again that he has "sold that part," or he has to have stated the themen, i.e. the price, of that part separately. If such things as bread and newspapers are sold by a mere give-and-take process between the seller and the customer without an exchange of words, the sale will be a sahîh one.

When the Dellâl, i.e. salesman, sells someone's property on the owner's behalf and with his permission, he takes his commission from the seller. He cannot ask the purchaser for a payment. For, in actual fact, he himself is the seller. The criterion to be applied here is not the convention among tradesmen. If the salesman serves as an intermediary between the seller and the buyer and consequently the seller himself sells his property, the commission will be paid by the seller or by the buyer, or both of them will pay their shares of the commission, depending on the established practices.

If the person who proposed the sale changes his mind before the other party accepts it, or if one of the parties leaves the place or the seller dies before the answer has been given, the proposal becomes bâtil. A person cannot make a sale to himself by deputizing both for the seller and for the buyer. Bey' and shirâ can be done in any language. If the buyer asks, "Have you sold me that property of yours for such and such price," and the seller says, "Yes," the sale will be sahîh; however, if the seller makes a gesture to mean 'yes', e.g. if he nods and thereupon the buyer says, "I have bought it," the sale will not be permissible. In case the verbs used are in the simple present tense, such as, "I buy," and "I sell," the sale will be permissible if the present time is meant, and not permissible if future or nothing is meant. Expressions like "I will buy" and "I will sell" are not binding in a sale.

It is sahîh to sell various items of property by package deal where the seller pronounces their prices separately or in the aggregate and says, "I have sold all of them." (Once the agreement has been made,) the customer has to take all of them.

When an agreement of bey' is completed, one of the seller and the buyer cannot go back on the sale. However, both of them together may cancel it. After the agreement is made, if they make another agreement on the spot or later, the second agreement will be accepted.

In a bey' that is sahîh, the buyer's possessing the mebî' is not conditional on his taking possession of it. Once a person has sold someone his known belongings kept in another city for a known themen (price), he cannot cancel the bey' on the only grounds that he changes his mind and he has not yet delivered the goods.

In case a (sale termed) mutlaq bey' is being made on the basis of an on-the-spot payment; even if the mebî' is not present and the buyer is not mukhayyer, (that is, he does not have an option,) it is not compulsory to take possession of the mebî', or the themen

whose postponement is permissible, as the agreement is being made. After the agreement is made, first the themen agreed upon on the basis of an on-the-spot payment will have to be paid by the buyer to the seller, who thereupon will have to deliver the mebî' to the buyer, and the buyer in his turn will have to take possession of it. For, once the agreement has been made the mebî' is the buyer's property. The seller cannot deliver the property to someone else unless the buyer gives him permission to do so. Yet he may decline to give it until the buyer delivers the money agreed upon on the basis of on-the-spot payment. If the condition is stipulated that the mebî' be delivered before (the delivery of the themen) although the sale is made on an on-the-spot payment basis, the bey' (sale) becomes fâsid. If the mebî' is not ready, the buyer may not pay the themen until the seller gets the mebî' ready. In fact, a person who buys a house in another city does not have to pay the themen immediately. The seller may take the themen after he or his deputy goes there and shows the buyer or the buyer's deputy that the house is ready.

When the seller meets the following three conditions, he will have delivered the mebî' to the buyer:

1– The seller or his deputy should say, "I have delivered it," or "Take it," after the agreement has been made.

2– The mebî' should be before the buyer and there should not be a hindrance to an easy delivery.

3– The mebî' should be distinct from other property and it should not be entangled with someone else's right(s).

Once these conditions have been satisfied, the buyer has to take possession of the mebî'. If he does not, the seller will not have to compensate for a possible loss. Goods that decay fast have to be delivered during the agreement. If they are not delivered immediately, the bey' will be fâsid.

In case the themen (price) is lost before the buyer has delivered it, and if the seller (bâyi') proves it by producing two eye-witnesses to the event, the judge sells the portable mebî' and gives the themen to the bâyi'. If the place of the buyer is known, or if the mebî' has been delivered to the buyer, or if the mebî' is not portable, the mebî' cannot be sold. If the mebî' is something that would decay in case it were kept, then the bâyi' as well is accredited to sell it to someone else. In a sale performed on the basis of on-the-spot payment; if the buyer takes possession of the mebî' without the seller's permission, the seller may take it back.

If the buyer has taken it with (the seller's) permission, or if the buyer has been keeping it as a vedî'a or an 'âriyat, the seller cannot take the mebî' away from the buyer for the supposed purpose of keeping it until he is given the themen. He requests an immediate delivery of the themen. In case the mebî' perishes and the buyer states that the perishing took place before he was delivered the mebî' whereas the seller says that the mebî' perished after the delivery, the buyer's statement is to be admitted. If both the parties produce witnesses, the seller's witnesses are to be admitted.

'Sevm-i-shirâ' means 'the seller's and the buyer's setting a price'. In case they agree on the price and the seller says, "Take it away and buy it if you like it," and the buyer says, "(O.K.), I will buy it if I like it," and the mebî' perishes or becomes lost as he takes it away, the buyer will (have to) pay its value or likeness. This rule applies also in case the buyer says nothing or says, "I will buy this animal for a thousand liras if I like it," and thereupon the seller delivers the animal without a reply. The buyer will have to compensate even if a statement was made, during the delivery, that the buyer would not have to compensate (for a possible loss or depletion). If the purchase were performed by the (buyer's) deputy and the mebî' perished as the deputy were taking it back upon the buyer's refusal to accept it, the deputy would have to compensate for it. If this process took place upon the buyer's order, the deputy demands his expenses from the buyer afterwards. For, an order for a shirâ (purchase) is not, (i.e. does not subsume,) an order for a sevm-i-shirâ. If the mebî' has not perished (for inevitable reasons) but the buyer has exhausted it, he will have to pay the themen. If they did not make an agreement on the (value of the) themen, he pays the themen demanded by the seller. If no mention of the themen was made, or if the themen was pronounced only by the seller and the buyer took the mebî' away with the seller's permission not for the purpose of buying it but in order to show it to someone else, the mebî' has been given to the buyer for safekeeping.

In a sale that is stated to be performed on a basis that the themen is to be paid afterwards, delivery of the mebî' takes priority (over delivery of the themen).

During a sale agreement, it is not compulsory to state the place where the mebî' is to be delivered and, if he (the seller) did not state it, the mebî' is delivered whereever it was during the agreement. If the themen is something portable, it is compulsory

to state the place where the themen will be delivered. In case a certain place is stated to be where the mebî' is located, the buyer may give up the purchase when he hears afterwards that the mebî' is in another city. It falls upon the buyer to remove the mebî' from the place of delivery.

In a bey' (sale), the themen may be postponed, i.e. it may be paid afterwards; this delayed payment and payment on the spot are equally permissible. Its postponement's being permissible is conditional on situations such as when the themen and the mebî' are not of the same genus, when both of them are not measured by capacity or weight, when the themen is a deyn and not an 'ayn, and when there is an established deadline for the postponement. If the themen that is an 'ayn is postponed, the bey' becomes fâsid. For instance, it would be fâsid to say, "I have sold that goat of mine for that five butchels of wheat on credit." Since the mebî' is always an 'ayn, postponement of the (delivery of the) mebî' is out of the question. For instance, a bey' performed on the condition that the mebî' were to be delivered a month later would be fâsid. A sale's being sahîh (valid) in instalments is conditional on that the number of instalments and the date of each and every payment and the amount of the themen to be paid be determined (beforehand). (**Durer-ul-hukkâm**).[1]

When both the themen and the mebî' are measured by capacity or when both of them are measured by weight or when both of them are of the same genus of property, there is fâidh (fâiz) in the sale. Sales that have fâidh in them cannot be performed on credit; in other words, the themen cannot be postponed, either. So, the agreement has to be made on the basis of an on-the-spot payment of the themen. When the themen is a deyn, its payment on-the-spot is realized by its being taken possession of. When the themen is an 'ayn, it already is something to be paid on the spot. It therefore does not have to be taken possesssion of. For, delivery of something that is an 'ayn cannot be postponed. If the mebî' is not made ta'yîn of, i.e. if it is a deyn, the bey' (sale) becomes fâsid. A sale of selem is an exemption from this. The (sale termed) selem is permissible although the mebî' is a deyn in the selem. Yet the conditions of the selem have to be satisfied. Although it is not

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[1] A commentary rendered by Alî Haydar Begh, (d. 1355 [1937 A.D.], Üsküdar, İstanbul,) to the universally known and admired book, **Majalla** (or Mejelle), written by Ahmed Cevdet Pâsha, (1238 [1823 A.D.], Lowicz (now in Poland) – 1312 [1894], the same place.)

permissible to postpone the (payment of the) themen in a sale where the themen and the mebî' are measured by weight, situations wherein gold or silver serves as the themen have been exempted from this proscription. For that matter, sales of property performed by using money do not involve fâidh. Postponement of the themen is permissible although the sale may have been based on an on-the-spot payment. (In this case) it is necessary (for the seller) to say, "I have postponed (the payment) until such and such time." The postponement will not be valid by ordering, "Pay it at such and such time." It is a condition that the period of postponement in a sale, (i.e. its length,) be known by (both) the seller and the buyer. The period of postponement starts by the date of delivery of the mebî'. It is not permissible to set the deadline of the postponement by ambiguous terms of time such as, "when hâdjis are back," and, "when it rains." Postponements of this sort are fâsid. For instance, it is fâsid to make a purchase by stipulating the condition that half the themen (price) be paid on the spot and the remaining half be paid when, say, a person the buyer is awaiting arrives. The purchase will be sahîh if the date of the awaited person's arrival is stated. Concerning a debt gone into after a sale performed on the basis of an on-the-spot payment, it is not a condition that the deadline of the postponement of the payment of the debt be known well. Once a sale has been performed on the basis of a postponed payment, the seller cannot ask for the money before the time of payment comes. For that reason, it is recommendable that the buyer write out a checque or a promissory note and hand it to the seller. It is permissible to perform a bey' (sale) wherein it is stated that the themen will be paid on certain dates on an instalment plan, and in case one of the instalments is not paid on its proper date all the remainder will have to be paid at once.

Whereas debts in return for tenancy or for damages inflicted may also be postponed for a clearly defined period of time, a debt incurred as a result of loaning or the price in a sale of sarf, (i.e. in a sale whereby gold or silver in the state of cash minted as coins or finished articles are sold in return for one another and in which both units of property are themens,) or the debts of the decedent cannot be postponed. For, postponement of the debt (in any one of the last three cases) would mean a bey' (sale) performed on the basis of a postponed payment although both units of property are of the same genus, which in turn would be a sale with fâidh. If the buyer dies, his debts must be (set aside and) paid immediatly out

of the property (or money) inherited from him, without waiting for the deadline of postponement. If the seller dies, however, his inheritors will have to wait until the deadline of postponement. If the bargain is made on a postponed payment without mention of time, the postponement will be assumed to be one month. As a matter of fact, one month is the essential assumed length also in transactions such as sales of selem and oaths. In case of a disagreement (between the seller and the buyer) on whether the sale was on credit or on cash payment, the seller's word is accepted. That is, it is accepted that the sale was performed on cash payment. If the disagreement is on the time of the postponed payment, this time the buyer's word is accepted. If a person buys goods in Istanbul and says that he will pay the money when he goes to Bursa, the sale is not permissible because the date of payment has not been stated.

If the kind of the themen was not stated, it must be concluded that it was the (kind of the) themen that was being used there during the bargain. Here if the kinds of money in circulation are equal in their intrinsic and current values, the bey' performed is sahîh. In this case, the buyer may give the money at will. If their current values vary, the buyer will have to pay in the one with the highest value. If their intrinsic values vary although their current values are the same, a bey' (sale) performed without mentioning the kind and the quality (of the money) will be fâsid.

If the (monetary) phrase uttered during the bargain is, say, "... for ... liras (dollars, pounds, etc.)," the buyer has the choice to pay in any one(s) of the paper bills being used at the markets. However, if the kind of the themen was pronounced, it cannot be changed. For instance, if the so-called phrase uttered contained designations such as 'gold coins called, say, Hamîd, Reshâd, İngiliz, Cumhuriyet, –these are gold coins used in Turkey– or, say, Turkish one-lira bills,' the price has to be paid in the designated kind of the money. The buyer cannot change the (designated) number (of the coins or bills) if their value changes. The same rule applies in payments such as loans borrowed and rentals; i.e. the payments must be made in the designated kind. In other words, when the themen itself is made ta'yîn of, (i.e. when it is designated,) it does not have (the attribute of) ta'ayyun, (i.e. it does not turn into an 'ayn, or, if it is an 'ayn, it does not remain an 'ayn.) However, if its genus, its amount, and its quality are made ta'yîn of, they have (the attribute of) ta'ayyun. If metal coins and paper bills in circulation become **kesâd**, that is, if they are no

longer current (when the time of payment comes), what is to be paid in lieu of the amount agreed on has to be equivalent to its value at the time of the bargain, according to Imâm Abû Yûsuf, and at the time of the withdrawal of the currency from circulation, according to Imâm Muhammad. The course of action to be taken (in this matter) must conform with the Imâm Abû Yûsuf's qawl (word, report, ijtihâd). The bâyi' (seller) has to accept the amount of present currency calculated accordingly.

It is sated as follows in the final part of the book **Hadîqa**: "The amount of gold and silver used in transactions such as bey' and shirâ and rentals and loanings and (marriage contracts termed) nikâh must be stated in units of weight. If the themen is present at the time of bargain, it will suffice to show it. Its amount needn't be stated. Bargains made in terms of gold and silver will not be sahîh unless the amounts of gold or silver are stated in terms of weight. Such bargains are fâsid. A narrration transmitted on the authority of Imâm Abû Yûsuf and alleging that they will be sahîh, is (one of the narrations termed) dâ'îf. It is not permissible to act upon it. According to the Tarafeyn, [i.e. Imâm a'zam Abû Hanîfa and Imâm Muhammad,] existence of nass (âyats and hadîth-i-sherîfs with clear meanings) concerning a certain matter invalidates any usage and custom. However, the gold and silver coins minted by the State have certain weights. When their number is pronounced during the bargain, their weight is meant. It was usual among the Sahâba and among the Tâbi'în to express pricing mensurations only in numbers during their bargains. Pronouncing numbers was considered tantamount to pronouncing weights. So, their example should be followed today and, when the gold and silver coins not shown during the bargain are stated in numbers, their weights should be borne in mind. Bargains made with this intention in mind will be sahîh. [It is not a condition to know how many grams a silver coin weighs or to consider the amount of weight.] The earth's earliest gold and silver coins were minted by Âdam 'alaihis-salâm'. The Islamic world's earliest monetary coins were minted by Hadrat 'Umar. In the eighteenth year of the Hijrat (Hegira) he had the Persian coins reproduced, the new coins with the same shapes and inscriptions. The gold coins printed under the command of Hadrat Mu'âwiya had a picture of a warrior wielding a sword. It was Abdullah bin Zubeyr who had the first round-shaped silver coin minted, in Mekka. Before him coins were short and thick chunks. [The book **Hadîqa** provides ample information borrowed from Maqrîzî about the earliest coins minted in Islam.

Ahmad bin Alî Maqrîzî (d. 845) was not an Islamic scholar. He was a historian harbouring Shiite views. It was therefore deemed unsuitable to cover the so-called citations.] There were gold and silver coins in Mekka before Islam. They weighed twice as heavy as the coins used by the Muslims. Those coins were used also by Rasûlullah 'salla-Allâhu 'alaihi wa sallam' and Hadrat Abû Bakr 'radiy-Allâhu ta'âlâ 'anh'.

It is stated in **'Uyûn-ul-Besâir**, in its section dealing with the nisâb of zakât: "Formerly, there were three kinds of dirham. One dirham of silver weighed twenty qirâts (carats) or twelve qirâts or ten qirâts. They are called, respectively, 'dirham of ten', 'dirham of six', and 'dirham of five'. Hadrat 'Umar added up the qirâts of these three dirhams together. Then, dividing the sum, forty-two, by three, he made an average dirham that weighed fourteen qirâts. This average dirham is called 'dirham of seven'. For, the weight of ten dirhams is equal to the weight of seven mithqâls. [One mithqâl weighs twenty qirâts.] Formerly, dirhams, (drams) were in forms of grains. According to widely-accepted information, the round-shaped dirham that we know was first minted by Hadrat 'Umar. The same information is written in **Fatâwâ-i-zahîriyya**, (written by Qâdî Muhammad bin Ahmad Zahîr-ad-dîn Bukhârî, d. 619.) It is stated as follows in the Mekka section of the book **Mir'ât-ul-harameyn**: "Gold and silver coins minted in certain weights are called **meshkûkât** (numismatics). Gold coins are called **dinâr**s and silver coins are called **dirham**s. The oldest numismatics discovered by archaeologists are coins minted by ancient Greek nations. In the era of the Sahâba, numismatics inherited from the ancient Arabs were used, along with unminted pieces of gold and silver, which were being weighed and used. There were three different dirhams with three different weights then. Hadrat 'Umar 'radiy-Allâhu 'anh' unified them into one different dirham whose weight was the average of the other three. Changing the weight of the qirât as well, he announced that one qirât was one-fourteenth the weight of a dirham, and that twenty qirâts would weigh one mithqâl. In the twenty-eighth year of the Hijrat, Hadrat 'Uthmân had gold and silver coins minted with this reckoning system in the **Hertek** city of Taberistan.

"Most Islamic States minted various coins in their times. During the early times of the Ottomans coins belonging to the Seljukî Sultâns were in use. It was in 729 [1329 A.D.] when Orhân Khan had the first Ottoman currency minted. Later, a variety of coins were minted and various laws were enacted to regulate the

monetary transactions.” Weights of mithqâl and dirham are different in the Hanafî Madhhab than they are in the Shâfi’î Madhhab.

The lexicon entitled **Ferhengh-i-Fârisî**, (written by Dr. Muhammad Mukrî and) printed in Teheran in the hijri-shemsî (solar) year 1333, provides the following information under the entry ‘**Chav**’: “A word of Chinese origion. It is the name of a paper bill that was used as currency in ancient China. In the hijri-qamerî (lunar) year 693, Keyhâtun, the time’s Shâh of Îrân (Persia), had paper bills similar to the Chinese money called chav issued, and commanded that they be used in lieu of gold and silver in his country. However, the public being disinclined to use them, they were soon abandoned.” It is stated as follows in the translation of (the lexicon entitled) **Burhân-i-qâti’**[1]: “The rectangular pieces of cardboard called ‘chav’ and ‘chad’ were used as currency by one of the Mongolian Sultâns after Dzengiz Khân, and later by Izz-ad-dîn Muzaffer, the Sultân of Azerbaijan. The people refused to use them and killed Izz-ad-dîn.” As is stated in the first chaper, (which deals with zakât,) of the current book, the Ottoman State used their first paper money in the hijri year 1256 and that it was abandoned afterwards. [The Islamic States preferred using metal money. One reason for this choice was parsimony. The following passage has been borrowed from the March 29, 1986 issue of the Turkish newspaper Türkiye: “There is one thousand tons of paper money in circulation in Turkey. This tonnage consumes tremendous disbursement. As a result of wear and tear, four hundred tons of new bills are produced yearly. Efforts are being made to mint metal lira coins in lieu of at least some of them.”]

If the themen is property and not money, in fact, even if it is in the form of finished articles of gold or silver, it has (the attribute of) ta’ayyun, like a mebî’, when it is made ta’yîn of during the bargain. A sale thereby made is **muqâyada**. That is, the specified themen itself has to be given. For instance, if the buyer said, “I have bought this rooster for that spoon,” pointing to a silver spoon, he has to give the spoon itself; he cannot give another silver spoon identical with it in weight, in shape, and in value. Likewise, other

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[1] This Persian dictionary was written by Huseyn bin Khalef and translated into Turkish by Sayyid Ahmad ’Âsim of ’Ayntâb (today’s Gâziantep in southeastern Turkey) ‘rahmatullâhi ta’âlâ ’alaih’, (d. 1235 [1820 A.D.], Nûhkuyusu, Üsküdar, Istanbul.)

kinds of ready and current money also have (the attribute of) ta'ayyun when they are made ta'yîn of in transactions such as safekeeping, joint-ownership, proxy, payment of rentals, gifts, i.e. giving presents, in deputizing (for somebody) in paying zakât, almsgiving or buying something, and in extortion. That is, a person entrusted with some money has to return the money itself. If the money perishes, he cannot give its likeness; he must pay its value. A person deputized to buy something cannot spend for himself the money given to him by the person who deputized him. If he spends it for himself, his authority as the deputy becomes void. A person who extorted a gold lira has to return the gold coin itself. If he no longer possesses the coin, he cannot give its likeness. He must pay its value.

If it is not stated during the bargain whether the payment is to be made on the spot or on credit, it means that it is to be paid on the spot. However, in this case the themen may be paid the following week or by the first day of the (next) month, depending on the usual practice.

It is permissible for the seller to point to an item of goods (or to a man) present at the place of bargain and say, "I demand that this be given (to me) as security (or that this man be a guarantor)." The bey' will not be sahîh unless the buyer accedes to it.

It is the buyer's responsibility to deliver the themen and to defray the costs of the promissory notes of sale (on credit). In a wholesale purchase as well the costs of the delivery of the mebî' devolve on the buyer, whereas the costs of the measurement and delivery of the mebî' in a retail sale are the seller's responsibility. For instance, when a lighter-load of wheat or firewood is sold, unloading the lighter as well as transporting the merchandise lies with the purchaser.

There are four types of sale with respect to knowledge of the amount of the mebî':

1– With mithlî property measured by weight or by capacity or by length or by number, the price of the unit of measurement and the amount of the mebî' will be stated. This policy is always followed in routine sales.

2– If the mebî' and the themen are not of the same genus, the mebî' can be given as a **lump sum** and by a **wholesale price**, without measurement. Things bought in packages or boxes and without measurement fall into wholesale category unless the amount is stated, even if the amount is written (on the package,

etc.) Capacity or weight can be measured by using any indeterminate measure of capacity or a stone. It is not permissible to measure the themen in this way in a (sale termed) selem.

3– If the litre-price of a tinslate can of olive oil is stated without any mention of its total amount, only one litre of it has been sold, according to (the ijtihâd of) Imâm a'zam (Abû Hanîfa). If its amount becomes known by way of statement or measurement at the place of bargain, all of it has been sold. According to the Imâmeyn, it would be sahîh without measurement as well. The fatwâ[1] is in corcordance with their ijtihâd. With a flock of sheep, however, neither the flock nor an individual sheep would have been sold. For, the sheep in a flock are not identical with one another. Another exception is cloth. So is the case with qiyamî things that are sold by number and which differ from one another. The **Imâmeyn**, [i.e. the two Imâms, Imâm Abû Yûsuf and Imâm Muhammad,] said that these things are like olive oil. The fatwâ agrees with this ijtihâd. Also in this category are sales of orchards, building plots and fields.

4– When its total amount and total price are stated and no mention is made to its price by unit of measurement, it has been sold in its totality. Its measurement is unnecessary. In the first and fourth kinds of sale, if the buyer measures the mebî' when he takes possession of it and finds that it is less (than the stated amount), he has the choice to cancel the sale or to take back the difference of the themen. He cannot demand the difference of the mebî'. If the mebî' turns out much more, he gives the amount left over back to the seller. For, always, the binding amount is the one pronounced at the time of agreement. If the difference is less than the value of five-thousandths of a dirham or silver or one habba[2] of gold, he does not return it. In a sale of the fourth category. difference of a manufactured item that is sold by weight, e.g. a copper saucepan; or of items of property that are measured by length, e.g. cloth and a building plot, canot be separated. So, when it turns out less (than the amount stated), the buyer has an option

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[1] Fatwâ is a conclusive explanation wherein an authorized Islamic scholar answers Muslims' questions on a religious matter. Sources and documents on which the fatwâ is based are appended to the fatwâ.

[2] Habba is a unit of weight equal to that of a grain of barley.

between cancelling the sale and accepting the mebî' for the price agreed upon (during the bargain). If it turns out more (than the amount stated), the bey' (sale) becomes consequential and the excess becomes the buyer's property. In a sale falling into the first category, the buyer has an option also when it turns out more. If an item of qiyamî property sold in a sale that falls into the fourth category turns out more or less (than the stated amount), the bey' (sale) becomes fâsid. If that sale were in the first category, when the amount of the mebî' turned out less (than the amount agreed upon) the buyer would have an option between cancelling the bey' and taking the value of the shortfall back from the seller; and yet if it turned out more, the bey' would be fâsid. It would be permissible if a hundred kiles of wheat were sold for a hundred liras. Yet, if the buyer found that it weighed less when he measured it, he would have an option to buy the wheat by paying the price diminished accordingly or abandon the sale in its entirety. If it were found to weigh more, the excess would belong to the seller. This rule applies also to mithlî goods that are measured by weight or by number and low-priced fabrics. With high-priced fabrics, however, if the commodity bought turns out less (than the amount stated), he may buy it without paring down the price or give up the sale, depending on his choice. If the commodity turns out more, the excess belongs to the buyer, and the seller cannot desist. If the price of each metre of the fabric was also stated, the buyer has an option to buy it by offsetting the difference or go back on the sale, regardless of whether the commodity turns out to be more or less. So is the case with purchasing a piece of land. A desired number of shares, say ten, of a building plot divided into shares can be sold. The buyer has the freedom to choose any part of the plot. Suppose you have a piece of land measuring a hundred dönüms (a dönüm is an area of 940 m^2.) It is not permissible to sell, say, ten dönüms of it. The Imâmeyn (Imâm Abû Yûsuf and Imâm Muhammad) said that it would be permissible. If something that is not mithlî is sold wholesale after stating the number of the items making it up- –for instance, if the number of the ten suits making up a large package is stated and the package is sold wholesale for a thousand Turkish Liras–, and if afterwards the number turns out less or more, the sale becomes fâsid. For, because things that are not mithlî are unlike one another, each and every one of the items sold has a value different from every one of the others.

When a building plot is sold, the buildings and keys it contains

will lalso have been sold. When an orchard is sold, the trees within it will also have been sold. On the other hand, when things like an arable field, a tree and a house are sold, their content, i.e. crops, fruits, furniture and household utensils, etc., respectively, will not also have been sold. The seller has to harvest the crops and the fruits, or move away the contents of the house. The contents also will have been sold if a phrase such as "... and the crops (fruits) that it contains..." is added to the agreement. It is permissible to sell the fully formed fruit on a tree even if they are not mellow enough for consumption. The buyer gathers them immediately. If he demands that they should stay on the tree, the bey' (sale) becomes fâsid. It is all right, and good, if the seller lets them stay on the tree even though the buyer does not make a demand to that effect. If, after buying the fruit on a tree, he rents the tree instead of gathering the fruit, the renting becomes fâsid whereas the growing of the fruit is halâl. Likewise, it is fâsid (for the buyer) to rent the field in order not to reap the crop that he has bought. The crop's growing thereby is not something good for the buyer. If a tree whose fruit was bought yields new fruit before the fruit bought has been reaped, the bey' becomes fâsid. If it yields new fruit after the reaping, the seller and buyer are co-owners of the new fruit. If it is permissible to sell something separately, it is permissible not to sell it (with the rest of the mebî') by separating it from the mebî' or to reserve it for oneself and to sell the remainder. Something that cannot be sold separately cannot be severed from the mebî'. It is permissible to leave a certain amount of the fruit on the tree(s) or which have already been harvested to the seller and to sell the remainder wholesale. It is permissible to sell wheat in ear in return for something else. Also, it is permissible to sell broad beans, rice and sesame likewise, i.e. in return for something else. So is the case with selling almonds, pistachio nuts and walnuts in their inner shells. It is sahîh to sell the bees in a hive, silkworms or their eggs, leeches, hunting dogs, good mouser cats, gamebirds, elephants, and all sorts of useful animals. A person may sell his **hissa-i-shâyi'a**[1] without getting the permission of his partner(s).

When something measured by bushels, (i.e. by capacity,) or by weight or by number is bought upon (the seller's) stating its total amount and its price by a unit of measure, it is not permissible to consume it or to sell it without measuring it [during the purchase

[1] (One of the) share(s) of a house, a field, etc., owned by more than one people; co-ownership. Please see the forty-fifth chapter.

of thereafter.] The seller’s measuring it in the presence of the buyer after the bargain, will suffice. [In situations such as when you order groceries or meat by sending a boy or by telephone, it may be difficult to weigh such goods when they are brought home. To prevent complications, a price tag should be attached to each parcel and thereby the parcel should be bought by package deal without taking its weight into consideration. Thereby a second bargain will have been made and the earlier bargain will have been cancelled; it will be permissible to consume the food thereby bought without weighing it at home.] When goods measured by weight are weighed by using something as the tare, the weight of the tare must be deducted. To do this, the tare must be weighed before and after it is loaded. There is detailed information on this subject in the thirty-first chapter. Since it would be difficult to tare and deduct the weight of the paper from goods that are sold in paper bags and the like, agreement, i.e. îjâb and qabûl (proposal and acceptance), should not be performed before weighing the commodity to avoid consumption of harâm (forbidden) food. After the commodity is weighed the buyer should ask questions such as “How much do I pay for this?” and “How much is this?”, and then pay the money demanded, thus buying the commodity by package deal. Or he should say, “Give me such and such lira worth of cheese, please,” without asking the price. After the weighing, he should pay the money and take the commodity. Not so is the case with items measured by length. The buyer may use them or sell them without measuring them. After the delivery of a commodity that has been sold for ready cash or on credit, and yet before the delivery of the themen, it is fâsid to buy that commodity from that buyer by paying the same kind of themen (on an equal term of credit and) more cheaply (than the former price) or on a longer term of credit (than the former term of credit). If that buyer has sold or donated it to someone else, then it is permissible to buy it from that (new) owner. In fact, it is also permissible for the seller to buy it back if he has received the entire themen or for the same price as he charged for selling it or for a different price provided the themen also be of a different kind.

When something movable is bought, it is not permissible for the buyer or his deputy to sell it, neither to the person who sold it to him, nor to anybody else, before the commodity has been delivered to him. However, he is permitted to give to someone as a present, alms, or loan. It cannot be utilized in payment of debts.

If a certain building is bought on the basis of an on-the-spot payment and its themen (price) has been paid and yet the buyer has not taken possession of the property he has bought, it is permissible for him to donate or sell it only to a third person. Yet he cannot rent it out. No creditor is accredited to sell on credit the thing owed to him, whatsoever it may be, before taking possession of it. In other words, a deyn cannot be sold in return for another deyn.

The seller is accredited with selling any kind of themen that is mithlî, if the themen is an 'ayn, to anyone on the basis of an on-the-spot payment before having taken possession of it and/or without measuring, as well as with giving it as a present, bequeathing it, and renting it out. If it is a deyn, he can sell it only to the buyer, or to the buyer's deputy, and on the basis of an on-the-spot payment. In other words, he can take another kind of property instead of the themen from the buyer, with the proviso that the delivery (of that property in lieu of the themen) be made on the spot. He can donate it as a present or as alms to the buyer, or he can rent him his house. Or he can discount the themen a little, or add to it if the buyer accepts it. A bey' (sale) with the stipulation that the seller will donate a part of the themen to the buyer is fâsid. If the themen is a deyn, the seller can transfer any one of his creditors to the buyer or bequeath something that the buyer owes to him. With the exception of a mebî' purchased and sarf and selem, any kind of debt due to a creditor, if it is an 'ayn, can be sold (by the creditor) to the debtor or to someone else on the basis of an on-the-spot payment. If it is a deyn, before it has been taken possession of, it can be sold only to the debtor on the basis of an on-the-spot payment. Or the creditor can use it to buy something from the debtor. It cannot be sold or given as a themen to another person. It is bâtil as well to sell a deyn to the debtor on credit, i.e. in return for a(nother) deyn. In other words, it is bâtil for a creditor to take something else, at a future time, in lieu of a debt that is due to him. Since promissory notes and certificates of debt represent a deyn, they cannot be used in lieu of money. They cannot be used to buy something on the basis of an on-the-spot payment from anyone other than the person who gave them. To sell them at a discount to a bank, on the other hand, means to sell a deyn to a third person. However, they can be transferred. Please see the thirty-first, the thirty-seventh, and the thirty-ninth chapters.

Witnesses and promissory notes are not indispensable in

matters of buying and selling. Yet both of them are permissible and recommendable. The cost of promissory notes devolves on the buyer.

Suppose a person said to a second person, “Sell me this commodity of yours for a thousand Turkish Liras,” and the latter replied, “I will not sell it for less than seventeen hundred,” and thereupon a third person said (to the second person), “Sell it to him for a thousand Turkish Liras. I will pay the remaining seven hundred liras of the themen; if, (upon this promise,) the second person sells the commodity to the first person, he will have the right to take the remaining seven hundred liras from that third person.

In the eternal past, Allâhu ta’âlâ predestined and reserved the sustenance of each and every living being, human beings and animals alike. As human beings and animals have predetermined life-spans and numbers of breath, likewise there is a predetermined amount of sustenance reserved for each and every person’s body and soul. Rizq (sustenance) never changes. It neither increases nor decreases. No one can consume another’s rizq. No one will die before having consumed all the rizq reserved for them. If a person works because Allâhu ta’âlâ commands him to and looks for his rizq in ways that are halâl, he will obtain the rizq that was reserved for him in the eternal past. This rizq will come with barakat to him. In addition, he will earn thawâb (rewards to be paid in the Hereafter) for his work. If he looks for his rizq at places forbidden by Allâhu ta’âlâ, he will, again, obtain that certain rizq that was reserved for him in the eternal past. Yet that rizq will not bring him any barakat or khayr. In addition, the sins he perpetrates for the purpose of obtaining his rizq will carry him away towards disasters.

Today, there has been an increase in the number of people who send their children, and even more tragically, their daughters, to places that are harâm, under the pretext of the ineluctable drifts of fashions. Fearing that their children may face penury in their future life, they do not teach them their faith, Islam, e.g. how to read the Qur’ân al-kerîm, and surrender them to the hands of unenlightened people. Their children turn out to be faithless, atheistic grown-ups. Who could in good conscience assent to their losing their sense of chastity and shame for the alleged purpose of securing their future? They undergo privations to obtain their rizq which was reserved for them in the eternal past. There are people crazy enough to make statements such as, “One could not make a

living by performing namâz. Nor could girls earn money by learning housework.” However, if their sons are taught the tenets of their faith and belief, accustomed to reading the Qur’ân al-kerîm, and trained to earn money in ways compatible with the commandments of Allâhu ta’âlâ, they will obtain the same rizq, easily and conveniently, too. Not only will their parents and the children themselves earn thawâb, but also their earnings will bring them khayr. They will be happy both in this world and in the Hereafter. Let us come to our senses! Let us look for our rizqs in ways that are halâl!

We love Allâhu ta’âlâ, and always obey His Mastery;
We make five daily prayers, and never defy His Authority.

A Believer behaves, and everyone, he pleaseth.
He oppresses none, and always in peace he liveth.

30 – BEING MUKHAYYER (OPTION) IN BUYING AND SELLING

The seller's or the buyer's right to desist from a transaction of selling and buying is termed '**being mukhayyer** (option).' Being mukhayyer is permissible in kinds of sale termed 'sahîh bey' ' and 'fâsid bey' '. It can be of (one of) three sorts:

1– **Being mukhayyer stipulated at the time of bargaining**: This sort of being mukhayyer cannot cover a span of time lasting for more than three days. And being mukhayyer without this span of time having been stated is impracticable. According to the Imâmeyn, they, (i.e. the seller and the buyer,) can be mukhayyer for a long time, provided the time be (made) known. It is permissible to say, (for instance,) "I will desist from the sale if you do not bring the money in three days." The sale will not be permissible if a period of more than three days is stipulated. It is permissible according to Imâm Muhammad. If the seller has stipulated being mukhayyer, the commodity remains in the seller's possession. If the buyer has taken possession of the commodity and it perishes as he keeps it, he will have to pay its likeness or its value in accordance with market prices. If the buyer is mukhayyer, the commodity gets out of the possession of the seller. If it perishes or harmed as it is in the possession of the buyer, he pays the **themen-i-musemmâ**, that is, the price they agreed on. The one who is mukhayyer may state his acceptance in the presence of the person with whom he made the agreement or at some other place. However, if he refuses, he will have to state it in the latter's presence. Imâm Abû Yûsuf said that the refusal also could be made at some other place. Being mukhayyer becomes invalid with the death of the person who is mukhayyer. That means to say that the sale will have to be accomplished in that case. Another case in which the (accomplishment of the) sale becomes compulsary is the expiration of the time (of being mukhayyer). The seller or the buyer may as well stipulate that a third person will have the right of option for a certain period of time. The bey' (sale) will not be sahîh if the days, i.e. the period of time (of being mukhayyer), are not designated. Refusal or acceptance may be made by the person who has made the stipulation or by that third person. If one of them refuses while the other one accepts, the earlier step is the valid one. The author of the book entitled **Durar-ul-hukkâm** 'rahmatullâhi ta'âlâ 'alaih' states as follows in the three hundred and third [303] paragraph:

“Being mukhayyer conditionally can be agreed on a few days after the sale agreement. However, being mukhayyer stipulated prior to the sale agreement is null and void.” Concerning the purchase of a house without a certificate of occupancy; failure to meet the deadline by which the certificate of occupancy was promised is to be construed as the municipal council’s refusal to give permission for the sale, in which case the bey’ becomes cancelled. If the deadline is not made known the agreement of sale will not be sahîh; it will be fâsid.

It is permissible for the buyer to be mukhayyer for three or more days to make a choice between two or three different commodities. It is not permissible when the number of commodities exceeds three. One of the three commodities is the mebî’ and the other two are items of property belonging to the seller and possessed by the buyer for safekeeping. If they perish, the buyer will have to pay for one of them. He will not have to pay for the other two which he has been retaining for safekeeping. He cannot refuse all (three) of them. He can do so, however, if he stipulated being mukhayyer on all three of them. If the buyer dies before the time of being mukhayyer expires, his inheritors will (have to) buy one of the three commodities. When two people buy a commodity on the condition of being mukhayyer, acceptance (of the commodity) on the part of one of them rules out refusal on the part of the other person.

2– **Being mukhayyer concerning something purchased without seeing**: Purchase of something not known well by sight, i.e. something that the buyer does not see because the seller does not have it with him although it exists, is permissible. The buyer may refuse it when he sees it. He cannot be forced to pay the themen (price) before having seen it. This kind of option (being mukhayyer) does not have a time limit. Since the buyer is mukhayyer because he has not seen the commodity, he may cancel the bey’ also before seeing the commodity. If the mebî’ is not an ’ayn, i.e. if the seller does not inform the buyer about the place, the quality, the boundery, (supposing it is an area of land,) the kind, and the amount of the mebî’ that the buyer has not seen, the bey’ (sale) becomes fâsid.

If a person sells something that he specifies and it turns out to be something of another kind, the bey’ becomes bâtil. For instance, if a purchase that you have made with the intention of buying water melon seed turns out to be cucumber seed, the sale

becomes bâtil. If the buyer still possesses the seed he returns it. If he no longer has the seed, then he gives its mithl to the buyer, and takes the themen back.

If a person sells his commodity without seeing it, he cannot be mukhayyer. That is, he cannot desist from the sale when he sees the commodity. A person who sees the head and the rump of a horse, mule or ass will not be mukhayyer. A person who buys a sheep for its meat without palpating it with his hands, will be mukhayyer. A person who has seen the hall of the house (he's buying) will not be mukhayyer even if he has not seen its room(s). However, it is necessary also to have seen its rooms, according to Imâm Zufer[1] 'rahmatullâhi ta'âlâ 'alaih', and the fatwâ has been given in agreement with his ijtihâd. A buyer who has seen some of a mixed commodity will be mukhayyer when he sees the entire commodity. A person who has seen a sample of a commodity measured by weight or by capacity will not be mukhayyer when he sees the commodity in its entirety. However, if the commodity as a whole turns out to be of a lower quality than the sample shown, the buyer will be mukhayyer on account of the fault. A person who has not tasted the food (he is buying) is mukhayyer.

When a commodity has been seen by a person deputized by the buyer or sent by the buyer as his deputy to take possession of the commodity that he has already bought, [i.e. once the commodity has been seen by the person to whom the buyer said, "I have assigned you deputy,"] the buyer cannot be mukhayyer. However, if the buyer bought the commodity without having seen it, he will not lose his right of being mukhayyer when the commodity is seen by a person whom he has appointed as his deputy (only) to go and get the commodity.

It is permissible for a blind person to do buying and selling. When his purchases are things identifiable by touching or by smelling or by tasting, he will be mukhayyer by not having utilized these senses. Once a house (for sale) has been described to the buyer, he will not be mukhayyer. If a person buys two suits after having seen only one of them, he will be mukhayyer in buying or refusing both of them when he sees the second one. He cannot

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[1] Zufer bin Huzeyl 'rahmatullâhi ta'âlâ 'alaih', (110, Isfahân – 158 [775 A.D.], Basra,) was one of the scholars in the Hanafî Madhhab, and one of the disciples of Imâm a'zam Abû Hanîfa 'rahmatullâhi ta'âlâ 'alaih'. At times of (strong necessity termed) darûrat, it is permissible to act upon his ijtihâd.

refuse (only) the second one.

A person who buys something after having seen it will be mukhayyer if he finds that it is something else. The seller must be believed if he swears that it is not something else.

If the buyer says, “I have not seen it,” whereas the seller says, “You have seen it,” the buyer must be believed.

The two-volumed book entitled **Kitâb-ul-fiqh-’alalmadhâhib-il-arba’a** was compiled by a committee of Egyptian scholars presided over by ’Allâma ’Abd-ur-Rahmân Jazîrî, one of the professors of **Jâmi’ul az-har**, and was reproduced in Egypt in 1392 [1972 A.D.]. It was translated into Turkish by Hasan Ege and printed in seven volumes by Bahar Kitâbevi in 1971-1979. The following passage has been borrowed from its Arabic version: “There are four cases of being mukhayyer concerning something bought without seeing, according to the Hanafî Madhhab: The first case is the one wherein the commodity, i.e. the mebî’, is an ’ayn. When the mebî’ is a deyn, the sale is that of a selem. Being mukhayyer cannot be the case in a sale of selem. The second case is the one that concerns a place rented (without having been seen): it can be refused when it is seen. In the third case, when an ’ayn is divided among the co-owners, the ones who see their shares afterwards can refuse their shares. Being mukhayyer cannot be the case when mithlî property is divided and shared. The fourth case is when an agreement is reached in an issue concerning property. Supposing a person claims that another person owes him something and agrees in that person’s giving something that he does not see (in lieu of his debt). When this (former) person sees it he may refuse it.”

3– **Being mukhayyer on acount of a defect, a fault**: If a person finds a defect in a commodity that he has bought, he will be mukhayyer to buy it for its full price or to (altogether) refuse it. He can lower the price if the seller consents to it. A defect that causes a lowering in the price is termed an **’ayb** (fault). If the buyer, after buying the commodity, detects a fault as he uses it or after having changed its shape or quality, he gets back the difference in price. For instance, a person cannot refuse a piece of texture he has bought and cut out. Yet he may return it if the seller accepts it. If a person has sewn or dyed the texture he bought or if he has kneaded the flour he bought and has rubbed fat into it, he gets back the difference of price when he detects the fault. He cannot return the commodity even if the seller consents

to it. On the other hand, if a person eats the food or wears and tears the suit he has bought, he cannot demand to be paid the difference of price. He can do so, however, according to the ijtihâd of the Imâmeyn, (i.e. Imâm Abû Yûsuf and Imâm Muhammad.) If the eggs or melons or water melons or gourds a person has bought are found to have gone bad when they are broken (or sliced), he will get the difference of price if they are still edible. If they are thoroughly too nasty to eat, he returns them and takes all his money back. If three per cent of something a person has bought with the assurance (on the seller's part) that it is good enough is found to be unusable or inedible, the bey' (sale) will be sahîh. If more than that amount is too bad to be used or eaten, the bey' becomes fâsid. He returns all of it and gets his money back.

If a person, after having sold something that he had bought from someone else, is given it back on grounds of inadequacy by the court's decree, he may return it to the first saller, (i.e. to the person who had sold it to him.) However, if it has been returned to him not by the court's decree but by his own volition, he cannot return it to the first seller. If a person proves that something he has bought is defective and if the seller cannot swear that it is not defective, the buyer will not have to pay the money. Likewise, if the seller and the buyer agree on the bargain and on the amount measured and argue on the amount delivered, the buyer's word will be accepted. If something that is sold by weight or capacity is seen to be partly defective after it has been taken home, the buyer is free to accept or refuse it in its entirety.

If the buyer corrects the defect of something he has bought, he will no longer have the right to return it. To ride an animal bought means to accept it.

If a person has been cheated by way of a downright fraud termed **taghrîr**, which means to lie and sell something for an exorbitant price, he may cancel the bey' (sale). According to the hundred and sixty-fifth [165] paragraph of the book entitled **Majalla**, to be cheated by buying something for a price that is two and a half percent [2.5 %] or more higher than the highest price in the market, is termed **ghaben-i-fâhish=excessive inattention** (in buying and selling). This amount is five percent for 'urûz, i.e. for movables other than animals; ten percent for animals; and twenty percent for buildings. Being cheated below these limits is termed **ghaben-i-yesîr=petty inattention**. For instance, supposing something was sold

at a price that the seller claimed had been offered by someone else before; if the person who bought it finds out that the price he paid was higher by an amount of excessive inattention than its highest market price and that no one before him had offered that price, he may cancel the bey' (sale).

If the seller sells his commodity at an exorbitant price without lying, the buyer cheated cannot cancel the bey'. For, a person may sell his commodity for any price he wishes. There is not a profit limit in Islam. Only, it is harâm to sell food, clothes and lodgings at exorbitant, extortionate prices to people who are desperately in need. A person who has been lied to and cheated in a measure termed ghaben-i-yesîr cannot cancel the bey' (sale).

Everyone has someone to care for them;
There's none to tend poor me.
O, You, Protector of all the lonely!
Come, so You be my Company!

31 – SALES THAT ARE BÂTIL, FÂSID, MAKRÛH – SALE of SARF

The six sub-kinds of bey' and shirâ are touched upon, and the first one, sale that is sahîh, is enlarged on in the initial pages of the twenty-ninth chapter. In this chapter we will summarize sales that are bâtil, fâsid, makrûh, and mawqûf, sales by wafâ, and the sale of sarf.

2– **Sales that are bâtil**: Bâtil sales are not permissible; they are harâm. They are gravely sinful. A commodity bought by way of a bâtil sale will never become the buyer's property even if he takes possession of it. However, since he has taken possession of it by the seller's consent, it will be under the buyer's safekeeping; so he will not have to pay an indemnity for a possible depletion.

It is bâtil to sell things that are not accepted as property in any religion or to use such things to buy something. Blood, carcass of an animal that has died by itself, a free human being are not property (mal). Also, it is bâtil to sell property not valued in return for money or a deyn, and it is fâsid to sell something in this group, with the exception of wine, in return for property that is an 'ayn, while it is bâtil to sell wine in return for an 'ayn. Wine and swine and the carcass of an (edible) animal that has been killed by any way other than jugulation, such as by strangulation, by skewering, by hitting, or by electrocuting, or killed by jugulation by a disbeliever without a heavenly book, are among the items of property not valued. These things and, according to the two Imâms, all kinds of hards drinks are things whose sale has been prohibited. It is stated in the fifth volume of the book entitled **Durr-ul-mukhtâr**: "If a Muslim sells wine and pays his debt with the money he thereby earns, the money will not be halâl for the creditor. For, the themen (price) earned by way of a bey' (sale) that is bâtil will not be the mulk (possession, property) of the seller. It is like usurped property. It is harâm to take this money from the seller." Muslims grow grape vines and obtain grapes. They consume and/or sell the grapes, (their dried forms called) raisins, and (their juice that is either boiled to make the sweet and heavy syrup called pekmez or (treated so as to make the sour condiment that we call) vinegar. These products are sought after in the world's markets and contribute greatly to the country's national wealth. Not only are people who engage in this business closely aware of the importance and greatness of this natural resource, but daily publications and statistics proclaim the fact far

and near. Then, falsehoods such as, “Because Islam has ruled out sale of wine, we have fallen back in viniculture in the process of centuries and deprived ourselves of this great gift of the nature; Islam is responsible for this heavy loss in national income,” which the enemies of Islam utter for the purpose of deceiving younger generations, should not be believed. On the contrary, such abject liars should be pitied for their outright denial of a naked truth.

Also it is bâtil to sell the meat of an edible animal killed (in a manner prescribed by Islam and) by uttering the Name of Allah, (the Basmala,) together with (meat that has been obtained from an animal that died of itself or was killed in a manner not sanctioned by Islam and which is therefore called) a lesh. According to the Imâmeyn, however, the one killed by uttering the Basmala will be permissible if their prices are stated separately. Sale of anything that belongs to a waqf has been outlawed (by Islam). For, something that belongs to a waqf is not a mulk, (i.e. it is no one’s property.) For instance, it is bâtil to sell a bird that flies in the air or a fish in the sea before having hunted or caught it. A sale of this sort would not be sahîh even if the bird or the fish in question were hunted or caught after the agreement and thereafter delivered to the buyer. The agreement that were bâtil would have to be cancelled and a new bargain and a new agreement would have to be made on the property possessed now. It is bâtil to sell the young of an animal before it is born; the milk in the animal’s udder; the fodder in the field before being reaped; or the water in a spring or stream within your own real estate as long as it is in its natural place. For, it is stated in a hadîth-i-sherîf that it is a common right of all people to utilize the grass that grows by itself and the water that springs from the earth or to avail themselves of the heat produced by someone else’s fire. However, enjoyment of this right cannot go as for trespassing upon someone else’s property. The owner of the property should be kindly asked if he would give permission to enter or if he would bring you the water you need. It is written in the book entitled **Fatâwâ-i-Khayriyya** that underground water obtained from a well that a certain person has dug for himself or rain water stored in his own cistern does not involve others’ right, and that for that reason he is accredited to sell it. The same book of fatwâs also formulates a detour around the prohibition of the sale of milk in an animal’s, (e.g. cow’s) udder, as follows: “The person who wants the milk lends the owner of the animal something approximately equivalent to the value of the milk. Thereupon the owner of the animal tells him to borrow

the milk that will be obtained daily from his animal. Later they pay each other's rights by bartering their loans." It is bâtil to sell the fruit that has not yet appeared on its tree. Sale performed by a small child under the age of discretion, that is, a bargain or sale agreement by it, is bâtil. If the child's father has already made the agreement, it is permissible for him to send the child to get the commodity he has bought. It is bâtil to sell a deyn in return for another deyn. For that matter, any kind of loan that the creditor has not yet taken possession of cannot be sold (by the creditor) on credit to someone else.

It is bâtil to sell the flesh of a living animal by weight or the wool on a living animal or its hide. According to Imâm Abû Yûsuf, it is permissible to sell the wool on a living animal or the leaves on a mulberry tree. If a person wants to sell or buy the meat of a living animal by weight, he should, even at the place of bargain, weigh the animal, calculate by himself its cost by a unit weight, and then drive a bargain over the animal as a whole. The sale must be made over the animal. If you have not yet received something that you are to obtain by any way other than sale, you are allowed to sell it only to the person who owes you provided the sale should be made in return for an on-the-spot payment; it would be bâtil to sell it to someone else even on the basis of an on-the-spot basis, or to sell, for instance, a pair of shoes that you have not made yet even if you are to make it at a later date. It is permissible to make them, however, by way of **istithnâ'**; in other words, bespoke commodities (such as shoes, suits, etc.) are permissible. It is bâtil to sell or rent out public land areas such as meadows or pastures. It is bâtil to sell a jâriya who is an **umm-i-veled** (or umm-i walad). It is bâtil to sell a free woman's milk even after the milk has been taken out or to sell the hairs of a pig. It is permissible to use swine bristles for sewing in shoemaking when there is a darûrat, i.e. when other kinds of needles are not available, and to buy them if it is impossible to obtain them free of charge. It is makrûh to sell them to that person. The same rule applies to situations in which such things as fat of a lesh, (i.e. an animal who die of itself or killed in a manner not sanctioned by Islam,) urine, human milk, and wine are to be used in medicine or industry. According to Imâm Muhammad, that amount of hairs (or bristles) is clean. It is bâtil to sell hairs or any other limbs or urine or faeces of a human being, even if he or she is a disbeliever. It is not permissible to use them, either. Only, human excrement can be used, and its mixture with soil can be sold.

It is permissible to sell animal excrement, as well as to utilize it as a fertilizer or fuel. It is harâm to sell or use vedek, i.e. fat of a lesh.

It is stated as follows in the two hundred and forty-ninth [249] page of the fifth volume and the two hundred and fifteenth [215] page of the fourth volume of the book entitled **Radd-ul-muhtâr**:

It is written as follows in the books entitled **Nihâya**, **Hâniyya**, and **Tehzîb**[1]: "It becomes permissible for an ill person to drink urine or blood or to eat a lesh when a medically specialized Muslim doctor says that it will restore him or her to health and that there is no other medicine. So is the case with wine. However, according to a consensus of Islamic scholars, it is halâl (to drink it) for protection against death." It is written in the hundred and thirteenth [113] page: "It is bâtil also to sell a jâriya's milk." It is written as follows in the book entitled **Fath-ul-qadîr**: "It has been stated (by Islamic scholars) that if a Muslim doctor who is specialized in medicine says that the only therapy to cure a certain invalid is a woman's milk and that it will definitely cure him or her, it is permissible for the invalid to drink and to buy a woman's milk." [The same rule applies in blood transfusion.]

It is bâtil to sell the hide of a lesh without tanning it. It is permissible after tanning. Bones, nerves, horns, feathers, hairs of a lesh, as well as teeth of an elephant, may be sold and used. It is permissible to sell inedible animals, –with the exception of swine–, insects and marine animals other than fish only when they can be put to use. Even in that case, however, it is still harâm to eat them. When inedible animals, except for swine, are killed or hunted by saying the Basmala[2] (and in a manner prescribed by Islam), their hide becomes clean according to a consensus of Islamic scholars. It has been stated (by some of those blessed people) that in that case their flesh also will be clean, although it is harâm to eat their flesh. It is permissible to sell or otherwise utilize their skin and flesh. Fat mixed with najâsat (anything that is unclean according to Islam) is saleable and usable. Yet it is not edible. It is harâm for a Muslim to depute a dhimmî to sell or buy a pig or wine on his behalf. He will have to make vinegar from the wine bought thereby, or pour it away, or set loose the pig, and the seller will have to give the themen, (i.e. the money he has earned from the sale,) to the poor.

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[1] It was written by Abû Ja'fer Muhammad bin Hasan Tûsî, (d. 460).

[2] The Basmala is: "Bism-Illâh-ir-Rahmân-ir-Rahîm", which means, "In the the Name of Allah, Who is Compassionate and Merciful."

After the uppermost storey of an apartment building has become decrepit, it is bâtil to sell only that storey. For, there is no property left. Property that exists can be sold. A right cannot be sold separately. For that matter, it is bâtil to sell one's salary or provisions before taking possession of them or to get one's cheques discounted at a bank. Storeys of an apartment building are sold after construction. It is bâtil to sell them before they are constructed. A person is entitled to sell his right to construct a storey on his own storey. The right sold here is actually the right to use the ceiling of this person's storey as the floor of the storey that is to be buift on top of it. The ceiling and the floor will be the common property of the owners of the two storeys. Hence the **Shirket-i-mulk** (joint ownership). A stream or a river is not saleable, because it does not have certain boundaries. A road is saleable, because it has a certain length and a certain width. When a certain place is sold, also sold wlll have been the right to go across it, as well as the right to irrigate it, (supposing it is an area of arable land.) It is sahîh to sell an ewe (a female sheep) by saying that it is a tup (an uncastrated male sheep), yet in this case the buyer will be mukhayyer, (i.e. he will have an option.) It is bâtil to sell a commodity gratis. There is always fâiz (interest) in selling two things of the same genus in return for each other and on credit. If both of them are measured by weight or capacity and they are of different weights or volumes, there would be fâiz even if the sale were made on the basis of on-the-spot payment. And the sale would be fâsid if they were equal both in weight or volume and in qualities. For, it would be a useless sale. If they were equal in weight or volume and in genus but different in qualities, the sale would be sahîh if it were made on the basis of an on-the-spot payment. An exception of this is the exchange of gold or silver coins with one another, which is always sahîh when it is done on the basis of an on-the-spot payment. If the two parties disagree on whether the sale performed has been sahîh or bâtil, it must be concluded that the sale has been bâtil.

3– **Sales that are fâsid**: Fâsid sales are not permissible; they are harâm; they are gravely sinful. When the buyer takes possession of a commodity that he has bought by way of a fâsid sale, the commodity becomes his own property; yet it is harâm for him to consume it, to wear it, or to utilize it, (depending on the kind of the commodity.) It is wâjib both for the seller and for the buyer to cancel the sale and mutually return what they have received. If they don't, they will be sinful for having neglected an act that is

wâjib. If a commodity bought by way of a fâsid sale perishes somehow as it is in the possession of the buyer, he gives its mithl if it has a mithl. If it does not have a mithl, he pays its value equal to its market price at the time of sale. If the bey' (sale) had been sahîh, he would have to pay the themen on which they had agreed.

When a bey' (sale) that is fâsid is returned, first the seller gives the money (back). Then he takes back the commodity. After the seller takes the themen (price), it is permissible for him to make use of it before the sale is returned. However, it is not permissible for the buyer to make use of the commodity. Although it is sahîh for him to give the mebî' away as alms or as a present, he will have to make tawba for having disobeyed the wâjib. It is not sahîh for him to rent it out. If he has earned money by selling it, he must give away the profit as alms. It is halâl for the second buyer to (utilize the commodity, e.g. to) eat or drink it, (if it is something to eat or drink.)

Essentially, a sale that is fâsid is sahîh and permissible. For, it is the sale of (a commodity that we term) property valued. However, it is not sahîh because characteristically it runs counter to the Islamic principles. That is, it is a sale in which the themen (price) is not (something termed) property valued or the amount and qualities of the mebî' or the themen or, in a sale on credit, the time of the payment of the themen are not known; or it is a sale that accommodates fâsid conditions.

It is fâsid to make a sale of one of the two units of a qiyamî commodity by allowing the choice to the buyer. If the buyer says, "I will buy the one I choose," it will be permissible, he being mukhayyer.

The bey' (sale) will be fâsid if the themen (price) is not specified, i.e. if, for instance, (ambiguous) phrases such as, "... for the same price I paid for this commodity ..." or "... for its real value ..." or "... for its market value ..." or "for the price that that person paid for it ...", and if, to boot, its amount and genus are not stated. The themen has been specified if it has been shown or its amount and genus have been stated. Exclusively, the sale will be permissible without specifying the price of commodities such as bread and newspapers, since their price has been publicized and will not change with the seller's bidding. It is stated as follows in the book entitled **al-Hadîqa**, in its section dealing with things that are harâm to eat: "If something that is harâm has not been made ta'yîn of, (i.e. if it has not been specified,) it will be halâl to eat the food bought by paying it." Please see the first chapter of the sixth

fascicle of **Endless Bliss**!

It is fâsid to weigh something, [e.g. oil,] in a container and to stipulate that a certain amount of tare be deducted. The empty container must be weighed beforehand and the tare must be deducted. The sale will be permissible if it is stipulated that an amount equal to the volume of the container be deducted or if the oil in the can is sold as a whole without measurement. If the buyer weighs the empty container and states its weight, his statement is to be accepted even if the buyer does not believe him. [Please see the final part of the twenty-ninth chapter!] It is fâsid to sell the service provided by the rams put to the ewes.

It is fâsid to buy the fruit that the tree will yield or the crop that the field will bear before it ripens and by stipulating that it should stay at its place until it ripens.

It is fâsid for a poor person to sell the zakât before he has taken possession of it. It is fâsid to sell the property obtained as ghanîmat before it is divided and distributed (among those who have dues from it).

It is fâsid to sell an animal on credit in return for another animal. It is bâtil to sell putrid, magotty meat. As is written in the books entitled **Mawqûfât**, **Jawhara-t-un-Neyyira**, and **Tuhfa-t-ul-fuqahâ**[1], it is fâsid to make a double-priced sale, i.e. one in which you stipulate a higher price in case the sale is preferred to be on credit; e.g. to say, "... ten liras if you would rather pay now, and fifteen liras on credit." For, the themen is not known. There is a hadîth-i-sherîf prohibiting it. If commodities [such as a flock of sheep] that have been sold by stating their price as a whole turns out to be fewer or more (than the number stated), the sale becomes fâsid.

It is fâsid to sell something that you don't have with you without describing it to the buyer. If the buyer says to the seller, "If I buy your commodity, let this money be the themen (price) of the commodity. If I don't buy it, send the money back (to me)," the sale becomes fâsid. It is fâsid to sell on credit a debt that someone owes you. It is written as follows in the book entitled **Hamza Efendi Risâlesi Şerhi** 'rahmatullâhi ta'âlâ 'alaihimâ': "The twenty-fifth one is this: If a person owes another person property or money for reasons such as loaning or purchase or inheritance or gift-giving or almsgiving, it is not permissible for the latter person to sell that measured or counted property to the former person or

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[1] It was written by Muhammad Samarkandî, (d. 1117.)

to someone else on credit before having possession of it. If the property owed to him as a result of a purchase were not something like a house or a piece of land but something movable, it would not be permissible to sell it even for ready money before having taken possession of it. [Please see the final part of the twenty-ninth chapter!]

If a person is desperately hungry or thirsty or destitute or homeless, it is fâsid to sell him his needs for a price higher than their themen-i-mithl, i.e. their highest market price, by a degree of cheating termed ghaben-i-fâhish. It would be fâsid also to buy something from a poor person who were compelled to sell it in order to earn a sustenance by cheating him in a measure termed ghaben-i-fâhish. **Ghaben-i-fâhish** is defined towards the end of the thirtieth chapter.

It is sahîh for a disbeliever to buy a copy of the Qur'ân al-kerîm. However, he must be forced to sell it.

It is permissible to sell a worn and torn copy of the Qur'ân al-kerîm and buy a new one or to demolish a decrepit mosque and spend the money for another mosque. A waqf is something devoted by an individual person. Buildings that have been bought with the money belonging to the awqâf are not waqfs. If a waqf building is demolished and another building is made with the money obtained thereby, the new one is no longer a waqf building. It is the Beyt-ul-mâl's property. It is harâm to eat the fruits in the yard of a waqf building. The fruits, as well as the grass therein, are sold and the money is spent for the repairments done on the building. Its trees cannot be sold.

There are two sorts of conditional sales: The first one is **ta'lik** (postponement), in which the sale is made dependent on a condition by (one of the two people's) saying, for instance, "I have sold this commodity to you (or I have bought this commodity from you,) on condition that such and such event should, (or should not,) take place," and the second person's accepting it. A sale that is made dependent on a condition will be bâtil. The second one is taqyîd (restriction), in which the sale is limited to a condition by (the first person's) stipulating, for instance, "I have sold this commodity to you, (or I have bought this commodity from you,) on condition that you should, (or should not,) do this or that," and the second person's accepting it. This sort of stipulation may be jâ'iz (permissible) or mufsid or laghw (valueless). A stipulation that is jâ'iz is binding. A sale that has been made by stipulating a condition that is laghw is sahîh; yet

the stipulation is not binding. It is permissible to stipulate something that is already a requirement of the sale, i.e. something that would be obligatory or permissible or customary, even if it were not stipulated. For instance, a stipulation that is not a requirement of the sale and which will give no benefit to the buyer or the seller, e.g. stipulating that the commodity should be the buyer's property, will be laghw. If, during the bargaining, a stipulation that is not a requirement of the sale is made, and if that stipulation is beneficial to the buyer or to the seller, the bey' (sale) will be fâsid. According to some Islamic scholars, the bey' would be fâsid even if that kind of stipulation were beneficial to a third person, i.e. one who is neither the buyer nor the seller. If the stipulation that is fâsid is made after the agreement (of sale), it will be permissible, according to the two imâms, (i.e. the Imâmeyn; namely, Imâm Abû Yûsuf and Imâm Muhammad.) The fatwâ issued to bring this matter to conclusion was in agreement with the common ijtihâd of these two profound scholars. Such stipulations as "the buyer should not (or should) sell it to a third person" or "he should donate it" or "he should sell it in another town" or "he should not give it as a present" or "he should not put it out to pasture" or "he should not kill it (supposing it is an edible animal)" or "he should not ride it (supposing it is a horse, etc.)" or "he should not eat its flesh (even if he may kill it)," are all among stipulations that are laghw (useless, frivolous). It is fâsid for a person to sell his house by stipulating that he should be allowed to live in it till he dies, or that the buyer should look after him till he dies. It is permissible for that person to give his house as a present on (either or both of the two) conditions stated above; and then he cannot take the house back once he has granted possession of the house and the person receiving the house has given his consent to look after him. [**Majalla**, Paragraph 855.] Also among sales that are fâsid are those which have been made conditional with stipulations such as: a woman's stipulating that she herself or her daughter should be married by (way of Islam's marriage contract termed) nikâh; a person's stipulating that the commodity (he is selling) should be sold back to him; selling half of one's property by stipulating that the tax for the entire property should be paid by the buyer (of half of the property); selling one's property on condition that the payment should not include one's debt(s) to the buyer; stipulating that the fruit on the tree(s) sold should be gathered by the seller or that the wheat (bought) should be milled into flour or that the

seller should be allowed not to deliver the mebî' to the buyer or that the seller should deliver the mebî' (to the buyer) before the buyer pays the themen even though the agreement mutually made requires a ready payment or that the ready payment should be made in another town or that the seller should be allowed to reside for a while in the house sold or to deliver the commodity sold some time later or that the buyer should lend something to the seller or give him a present or rent something to him or that the seller should deliver the textile after sewing it.

It is stated in the book entitled **Fatâwâ-i-Hindiyya**: "If the seller says (to the buyer), 'I have sold this animal for a thousand liras to you, on the condition that you should give me that animal of yours in addition,' the sale will be permissible. It involves an addition made by the buyer to the themen. If the seller did not attach the phrase 'in addition' to his statement, a gift-giving would have been stipulated, which in turn would make the sale fâsid. It is permissible to stipulate that a third person should be given a loan. A purchase for which the buyer stipulates that the seller should give him or his son something in the name of a present or almsgiving, is fâsid. The sale would not be fâsid if the property to be gifted were changed into a mebî' or were sold together with the original mebî'. It is fâsid to sell a house by stipulating that it should be made into a mosque. It is fâsid to sell food by stipulating that it should be donated as alms to the poor or to sell a building plot with the proviso that it should be used as a cemetery. A sale conditional on the buyer's serving the seller for a while is fâsid. For, it would be a sale conditional on a rental. It is sahîh to sell a house by stipulating that the buyer should demolish it; yet the stipulation is bâtil. It is permissible to sell something by stipulating that the themen (price) should be given to the seller's creditor. A sale conditional on the buyer's acting as a surety for the seller's creditor is fâsid. It is fâsid to make a purchase in return for the money that a third person owes you. [Hence, it is not permissible to buy something from a third person in return for the promissory note(s) that your debtor prepared and gave you.] It is fâsid to buy something with the proviso that the themen should be given to a certain person specified by the seller. It is permissible to sell something with the proviso that the themen (price) should be discounted. It is not permissible to sell something with the proviso that a certain amount of the themen should be returned as a present. It is fâsid to buy the fruits in an orchard by stipulating that the seller should build a wall around the orchard. It is permissible

for the seller to say, ‘I will build a wall. You buy the fruits.’ In this case the buyer will be mukhayyer. It is not permissible to stipulate that a certain sale on the basic of an on-the-spot payment, or a certain transaction of borrowing, will be made in Bukhâra and the payment will be made in Samarkand. It is fâsid to sell an animal on the condition that it be pregnant. It is permissible to sell an animal by saying that it gives a lot of milk. It is fâsid to buy a water melon by stipulating that it will be sweet, or to buy a bird with the proviso that it will sing beautifully.

“In a bey’ (sale) that is fâsid, the commodity will become the buyer’s property if he takes possession of it with the seller’s permission. Yet he will have to give it back. It will be harâm for him to use it or give it into a third person’s possession. It will, however, rightfully become the third person’s property (in the latter case), and the seller will no longer have the right to take it back. If the buyer had rented it out, the seller would still have the right (to take it back).

“Buying and selling on the part of dhimmîs is subject to the very rules that regulate the buying and selling done among Muslims. Only, it is permissible for dhimmîs to buy and sell wine and swine among themselves. Please see the last three sentences of the penultimate paragraph of the second section of this chapter! It is not permissible, according to the Imâmeyn, to sell musical instruments to people who play them. It is not permissible to sell land and marine insects for food. It is permissible to sell them for medicinal or industrial use.”

Ibni ’Âbidîn states: “If a condition that is fâsid is stipulated before the agreement and then the agreement is made on that condition, the bey’ will be fâsid.” It is stated as follows in the book entitled **Durar-ul-hukkâm**, in its explanation of the hundred and eighty-ninth (189) paragraph of the book entitled **Majalla**: “The bey’ (sale) will not be fâsid if a condition that is fâsid is promised before the agreement and yet the condition is not mentioned by either party during the agreement and then the promise is fulfilled after the agreement.”

It is stated as follows in the explanation of the two hundred and fifty-fourth (254) and following paragraphs: “After the agreement, the seller may increase the amount of the mebî’ at the place (where the agreement has been made) or elsewhere. Or he may promise to give other property of equal value. Once the buyer has heard and accepted this, the seller will have to keep his promise. He cannot choose not to do (what he has promised) even if he believes

he should not have made that promise. After the agreement the seller may give a part of the themen (price) as a present to the buyer even if he has gotten possession of the entire themen. An addition to the amount of the mebî' or a partial reduction on the themen on the part of the seller after the agreement is to be included in the original agreement. In other words, it will be as if the agreement had been made on the supplemented mebî' or the themen pared down. Supposing a bargain is made upon the sale of twenty water melons for twenty liras; now, if the seller says to the buyer, "I have given you this bowl, too," the sale will be permissible if the buyer accepts it on the spot. The twenty water melons and the bowl will have been sold for twenty liras. The sale would be fâsid if the item or amount added by the seller were something whose sale were not permissible or which were faulty or defective. After the agreement has been made, the seller may give a part or all of the themen as a present to the buyer. Yet this gift-giving is not to be a part of the original agreement." It is stated in the explanation of the nine hundred and fifty-eighth (958) paragraph: "A person who wastes and depletes his property uselessly is called a **sefîh** (spendthrift). Not only is inattention in buying and selling an indication of being a spendthrift, but also some people's being cheated is a wily and deliberate inattention." [Hence, if the seller promises before the sale agreement that he will give additional gifts to the customers, and if this gift-giving is not stipulated during the bargaining, it will be permissible, after the sale agreement, for the seller to remind (the customers) of his own promise and to give (the customers) what he has promised. On the other hand, it would be a gamble, which is harâm, to hold a lottery among the customers and give the gifts only to those who win. The first chapter of the sixth fascicle of **Endless Bliss** enlarges on this subject.]

It is stated as follows concerning a sale that is fâsid in the book entitled **Bahr-ul-fatâwâ**: "Since something obtained by way of gambling is not a mulk (property owned), it is not permissible to sell or buy it or to eat it. A stipulation that is fâsid makes an exchange of goods fâsid. For, a stipulation that is fâsid involves an addition in return for nothing, which in effect means fâiz (interest). However, it does not make fâsid an exchange wherein property is changed for something that is not property; and it does not make a gift fâsid, either. It is stated as follows in its section dealing with kerâhiyyat: "As is written in detail in the book entitled **Behjet-ul-fatâwâ**, too, 'it is not permissible for a woman to show herself, (i.e. parts of her

body that are harâm for men other than her mahram relatives to look at,) to her sister's husband, [i.e. her brother-in-law.][1] It is makrûh tahrîmî in the Hanafî Madhhab to eat marine animals other than the fish. It is permissible to chant the (poetry eulogizing our blessed Prophet and which is termed) Mawlid-i-Nebî, and such public religious performances will yield plenty of thawâb, provided they be done compatibly with the Islamic principles. Preachers [and books] opposed to the Ahl as-sunnat should be banned.' A gift made on condition that it should be reciprocated will not be sahîh unless the reciprocation is fulfilled." A sale made conditional on that the buyer should appoint a guarantor or transfer the themen (price) is permissible; yet this permissibility itself is conditional on that the guarantor and the person who accepts the transfer should be present at the place where the bargaining is being made and they should state their consent.

A person who buys his needs on credit at the baker's or grocer's and pays for them monthly should ask and learn the price of each and every item he buys. If the themen (price) of each item he buys is not known daily, the bey' (sale) made will be fâsid. As has been clarified by the authorities of this matter, (i.e. by the profound Islamic scholars,) the bey' will not be fâsid as long as the themen is known, although the buyer may have accepted them without asking and learning the price of each item. If the two parties disagree on whether the bey' has been sahîh or fâsid, it must be concluded that the bey' has been sahîh.

An imâm (civil servant whose duty is to conduct prayers of namâz in jamâ'at in a mosque) or any other civil servant is accredited to cede their office to someone else in return for a sum of money. This transaction is not called bey'; it is called **ferâgh** (cessation, withdrawal). For, the two things exchanged for each other have to be (articles of) property to make the exchange a bey'. The act of ferâgh is subject to the sanction of the supervisor (of the civil servant). It is not permissible for a tenant to cede his tenancy in return for a sum of money. A person who has had to sell something under duress or as a result of intimidation may cancel the sale. If he proves by producing two witnesses that the duress has taken place, the law court will cancel the sale.

4– **Sales that are makrûh**: It is makrûh to do buying and selling during the period of time that begins with the azân (or adhân) of

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[1] For detailed information on these matters, please see the eighth chapter of the fourth fascicle of **Endless Bliss**.

early afternoon and ends when the imâm (who conducts the Friday Prayer) ends the prayer by making the salâm, on Friday.[1] It is makrûh to offer a higher price for something being sold, (say, at an auction,) among other customers although you are not planning to buy it. After two people have already made an agreement on the price of a commodity, it is makrûh to attempt to buy that commodity at a higher price.

As is stated by Ibni 'Âbidîn 'rahmatullâhi 'alaih' in his discourse on bâghîs and 'âsîs, it is makrûh tahrîmî to sell arms to people who arouse fitna (instigation, mayhem, turmoil.) or who rise in rebellion. Yet it is not makrûh to sell them raw material, e.g. iron, which is used for making weapons. In other words, it is tahrîmî makrûh to sell something that is, itself, directly used in committing a sin or sins, whereas it is makrûh tanzîhî to sell material used for making that thing. By the same token, whereas it is makrûh tahrîmî to sell musical instruments, it is makrûh tanzîhî to sell raw material, e.g. wood, to a maker of musical instruments. It is also makrûh tanzîhî to sell a jâriya who is a strongstress or a gamecock to fâsiq people. For, a jâriya is to be sold as a servant, not in order that she will sing. It is also makrûh tanzîhî to sell grapes to a wine maker. For, these things themselves are not used for sinful purposes; they are used for preparing things that are harâm. If a person cannot sell these things to places that are halâl, it will then be permissible for him to sell them to a place that is makrûh tanzîhî.

Another business practice that would be harâm is to waylay the dealers transporting food and other consumer goods from other places before they enter a city, store the thereby cheaply bought merchandize somewhere in the city, and sell them for high prices later. This malpractice is termed **ihtikâr** (profiteering, hoarding).[2] Before an agreement (between the seller and the buyer) has been made on the value of a certain commodity, it will not be makrûh to sell it to a third person who offers a higher price.

Sales that are makrûh are permissible; i.e. they are sahîh; yet they are makrûh.

5– **Sales that are mawqûf**: Sale of a commodity in which someone other than the seller also have a rightful share, is dependent (mawqûf) on that other person' permission. In other words, it will never be the buyer's property unless that person

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[1] Please see the twenty-first chapter of the fourth fascicle of **Endless Bliss** for 'Friday Prayer'.

[2] Please see the fortieth chapter.

approves of the sale. A person who buys a house being occupied will have to wait untill the expiration of tenancy. He might as well convince the tenant to evacuate the house of his own volition. A sale made by a child who has reached the age of discretion but who is under the age of puberty is mawqûf (dependent) on its father's permission. Among other examples of sales that are mawqûf are those of something pawned, a commodity extorted, and land rented out to a share cropper.

6– **Sale by wafâ**: If the buyer says to the seller, "I have bought this mebî' for such and such price, with the option that I will return the mebî' to you whenever you give the themen (price) back to me," and the seller sells him the mebî' after accepting the option, or if the seller says to the buyer, "I have sold you this (mebî') for such and such price, with the option that you will return the mebî' to me whenever I give the themen back to you," and the buyer replies that he has bought it (with the stated option), a sale by wafâ, which is sahîh, has been performed. It will also be sahîh for the buyer to return the mebî' and take his money back from the seller. Property to be sold by wafâ should not belong to various people. The mebî' is a pawn (kept by the buyer), and the buyer cannot sell it out to another person without (the original seller's) permission. In case it has not been stipulated as a condition that the use of the mebî' sold by wafâ should partly belong to the buyer, the buyer will have to pay for any benefit reaped if he uses it without (the seller's) permission. He will not have to pay if he rents it out. In case of death of the seller or the buyer, the rights possessed by the decedent will pass to his inheritors. When the time agreed on in a sale by wafâ expires, the mutual revocation can no longer be done.

The sale by wafâ is sahîh in a way, similar to fâsid sales in another way, and comparable to pawning in yet another way. Unconditional sales that are not by wafâ or by ikrâh (duress) or by being mukhayyer are called **sales of bât** (irrevocable sales).

SALE of SARF – The sale of sarf is a sale in which gold or silver, whether minted as coins or made into any other shapes or articles, is sold for other gold or silver or interchangeably. After the agreement and before leaving the place of agreement, both the seller and the buyer should have taken possession of the exchaged items, i.e. they should be in their hands or pockets. For, gold and silver are always measured by weight. If both the themen and the mebî' are measured by weight or by capacity, there is fâiz (or fâidh) in the sale. A sale that has fâiz in it cannot be made on

credit. It always has to be made on the basis of an on-the-spot payment. An on-the-spot payment, in its turn, is possible only when both items of property have (the attribute of) ta'ayyun. On the other hand, property that is a deyn, as well as gold and silver, will have ta'ayyun (only) when they are taken possession of, not when they are made ta'yîn of. Therefore, it is not a condition to make ta'yîn of the gold or silver currency. If a person says to another person, "I have sold you one gold coin in return for one gold coin," and the second person accepts it, and yet if they do not have any gold coins with them, the sale will be sahîh if they borrow gold coins from others and give the coins to each other before leaving the place of bargaining. If they do not take possession of each other's coins, it will be a sale of a deyn in return for a deyn, which in turn is a sale that is bâtil. A sale of sarf is made by bargaining. Being mukhayyer (option) is impracticable. Neither party can postpone delivery. That is, it is out of the question to say, "I'll give it tomorrow." If one of the parties leaves the place of bargaining before both parties have taken possession of the proceeds of the sale, the agreement becomes bâtil. When gold and silver are exchanged for each other, they do not necessarily have to be of the same weight.

As gold is exchanged for gold and silver is exchanged for silver, both parties have to know that the items being exchanged for each other are of equal weights. If they do not know so, the sale will not be permissible even if the weights happen to be equal. Even if one of the items is more valuable on account of artizanship, workmanship or some other factor, their weights still have to be equal. As regards other metals, however, workmanship might suffice (for the quantity-based valuation) to win over the weight-based valuation, so that it cedes its bench to a pricing determined by number. If the weight of the gold or silver given is not equal to that of the gold or silver taken, the difference must be offset by giving paper currency or something else. It will be makrûh if the value of the additional item given falls short of offsetting the difference. Or, the gold or silver currency should be returned and paper bills of equivalent value should be taken in lieu of it. Thereafter, by way of a separate bargaining, the paper bills received should be used for buying the gold or silver currency involved from the other party.

In the sale of sarf or in the one termed selem, the themen cannot be used before it has been taken possession of. If a person bought one dinâr [of gold] in return for ten dirhams [of silver], it

would be fâsid for him to buy something with it before having possession of it. Nor would it be permissible for him to bequeath it or to give it as a present.

It is permissible to sell two silver coins and one gold coin for two gold coins and one silver coin. The silver coins will have been sold for the gold coins. It is permissible to sell ten silver coins and one gold coin for eleven silver coins.

Supposing you are buying an iron sword worth thirty dirhams and with silver ornaments worth fifty dirhams on it; if you give fifty dirhams or more of silver without saying anything, or by saying that the amount you have given is the themen for the ornament, the remainder having been left unpaid as a debt, the sale will be sahîh.

Alloys of gold or silver and copper with more than fifty percent purity are like pure gold or silver. It is permissible to buy pure gold or silver in return for an alloy of that sort only when the weight of the alloy and that of the pure gold or silver are equal. Copper alloys with less than fifty percent gold or silver are to be treated like (the movable qiyamî property other than animals and called) urûz (or urûd). It is permissible for the pure gold or silver to be bought in return for these alloys to be heavier than the amount of gold or silver in these alloys, in sales where payment is done on the spot. These alloys, like (any currency that is other than gold and silver and which is called) fulûs, are used as currency and are measured by weight or number, depending on the general use. Yet it is essential to take possession of them once the agreement has been made and before the parties leave (the place of agreement). It is permissible to sell them for one another even when their amounts differ. For, in effect the silver in one of them will have been sold in return for the copper in the other. These alloys as well, when they are used as currency, will not have (the attribute of) ta'ayyun when they are made ta'yîn of. When they are not used as such, they are identical with urûz and will have ta'ayyun when they are made ta'yîn of.

When copper and bronze coins [and paper bills] are sold in return for their kind of the same number, [i.e. of the same nominal value,] or in return for gold or silver, they are always themen. When they are sold in return for naqdeyn, (i.e. gold or silver coins,) two conditions of fâid (fâiz) will not exist in this sale; yet either one of the two parties will have to take possession of their proceeds before leaving (the place where the agreement has taken place). Shernblâlî 'rahmatullâhi ta'âlâ 'alaih', (994-1069 [1658

A.D.], Egypt,) states in his commentary to **Ghurer**[1]: "In a sale whereby naqdeyn are sold for one another, it is a condition stipulated by the Nass (âyat-i-kerîmas and hadîth-i-sherîfs with clear meanings) that both the item sold and the one given in return should be taken possession of (by the buyer and the seller, respectively). Although the fulûs (coins minted of metals other than gold and silver) [and paper bills] also serve as the themen (in a sale), they are, like urûz, in the category of qiyamî property. They are not included in the condition imposed by the Nass. Therefore, the sale will be sahîh when only the fulûs or the themen for which it is to be exchanged has been taken possession of. If neither one is taken possession of, the sale will be one whereby a deyn has been sold for another deyn, which in turn is a sale that is bâtil." When fulûs are sold in return for the same number of other fulûs, which means to have paper bills changed, both of them have to be taken possession of before parting. [For, in this instance one of the two conditions of fâiz exists because they are of the same kind and that in turn makes a sale on credit harâm. If one of the two parties does not have the wherewithal to fulfill his part in the transaction, the other party lends him, so that he will pay his debt when he finds the money. As is written in the passage where the subject of 'fâiz' is dealt with, the fulûs being exchanged will no longer be themen if their numbers differ. Although it would be permissible to change a hundred lira bill by giving currency of lesser value in return, it would in effect mean to exploit someone's need by buying his property for a price below its value, which is a malpractice termed makrûh.] It is stated in the book entitled **Fatâwâ-i-Hindiyya**: "Supposing you are buying fulûs by giving silver in return and the seller does not carry any fulûs; it will be permissible for the seller to take the silver, leave the place, borrow the fulûs from someone else, and give it to you. [For, it will not be a sale with fâiz.] It would be permissible as well to take the fulûs before parting and give the silver afterwards."

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[1] The book entitled **Ghurer** was written by Muhammad bin Muhammad bin Ahmad Hâkim-i-Shehîd 'rahmatullâhi ta'âlâ 'alaih', (martyred in 334 [946 A.D.].) Also, Molla Husrev (or Husraw) Muhammad Efendi 'rahmatullâhi ta'âlâ 'alaih', (d. 885 [1480 A.D.],) the third Ottoman Shaikh-ul-islâm, wrote a book entitled **Durer wa Ghurer**. Shernblâlî's commentary to that valuable book, (i.e. to the former one,) was printed in Istanbul in 1319 [1900 A.D.].

32 – THE INVALID'S SALE

Hâdji Rashîd Pâsha, Governor of Mosul, states as follows in his book **Rûh-ul-Majalla**[1]: "There are two types of illness: In case of an ordinary illness, the first type, any kind of sale of any property is permissible for the invalid as long as they are conscious. As for the second type, maradh-i-mawt, i.e. illness of death; a person in his last illness may sell only one-third of his or her property minus his or her debts. Even if his or her debts are more than his or her property, he or she may spend it for his or her treatment." The following are the relevant articles extracted from **Rûh-ul-Majalla**:

Article 1595–An illness that causes death within a year is called **maradh-i-mawt**. An illness that lingers more than a year is not maradh-i-mawt, unless it turns into a fatal one. A sale to be made by a person suffering from such an illness is permissible, and no one can interfere in it.

Article 1596–A person in his maradh-i-mawt and with only his wife to inherit from him is accredited to bequeath all his property to his wife.

Article 1597–A person who declares property for one of his inheritors during his illness cannot retract his declaration if he recovers afterwards.

Article 1958–If a person in his maradh-i-mawt (deathbed) declares an 'ayn or a deyn as an inheritance or as a present to one of his inheritors and then dies, this declaration [on the part of the person in his deathbed] is not to be executed if the other inheritors refuse their consent.

It is stated as follows in the fourth volume of the book entitled **Radd-ul-muhtâr**: "A person unable to go out for his needs is called **a person in his deathbed**. A person with sporadic pains and pangs and who is most of the time able to go out is not called **a person in his deathbed**. This rule applies also to deseases such as malaria and tuberculosis as well as to debilities, (such as those gone through in the aftermath of an illness.) It will be permissible if a person with such an illness declares all his property as a present or for safekeeping to someone, who may be a non-inheritor as well. Or he may sell something or give a present to one of his inheritors. His

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[1] The blessed governor, whose full name was Sherîf Ahmad Rashîd bin Sayyid Nu'mân Fikrî, wrote that book in eight volumes and within one year, i.e. in 1325 [1907 A.D.], during his life as a retired governor in Istanbul.

(or her) preference is quite unencumbered by the other inheritors' consent." A person who senses that the inheritance he is to leave behind will not be dealt out compatibly with his wish may deal out all of it by giving presents in amounts at will.

Article 1600–During his maradh-i-mawt, his declarations of buying, selling and present-making are contingent on the inheritors' affirmation, claim as he may that he made them as he was healthy.

Article 1601–During his maradh-i-mawt, his stating that he gave an 'ayn or a deyn to someone other than his inheritors or that he received these things from them, is acceptable. His presents to those people, however, will be given if their value is below one-third of the property he leaves behind.

Article 1604–During his maradh-i-mawt, he cannot violate others' rights by paying his debt to one of his creditors. He can, however, pay the debts that he went into during his illness.

Article 393–If he sells something to one of his inheritors during his maradh-i-mawt, the sale will be revoked if his inheritors refuse it after his death. It is bâtil for him to bequeath property to one of his inheritors.

Article 394–It is sahîh and permissible for a person in his maradh-i-mawt to sell something for (a price called) themen-i-mithl[1] to someone who will not inherit from him. If he has sold it for a price below the themen-i-mithl, and if the amount of its deficiency from the themen-i-mith is more than one-third the themen-i-mithl, the person who has bought it will have to give the difference from two-thirds of the themen-i-mithl to the inheritors or, in case the invalid's debts have not been adequately paid, the difference from the (entire) themen-i-mithl to the creditor(s). If he refuses to do so, the sale will be void.

It is written as follows in the book entitled **Mejmû'a-i-jedîda**: "If a healthy person gives his property as a present to one of his inheritors, the other inheritors cannot abrogate it after his death.

Night and day my tongue sends salât-u-salâm
To your blessed soul, o you the Fakhr-i-enâm!

[1] Themen-i-mithl is the market value of something. It is the value attributed to it by cognizant customers or connoisseurs of market prices.

33 – MISCELLANEOUS PIECES of INFORMATION

It is permissible to sell dogs or other useful animals and birds. Buying and selling done on the part of a dhimmî, i.e. a non-Muslim living in a Muslim country, is no different from Muslims' buying and selling. Only, it is permissible for them to buy and sell wine and swine, (i.e. pigs, pork, etc.)

If a buyer disappears before paying the money or taking the commodity, the commodity will be saleable to someone else.

If a person has unknowingly taken counterfeit money as the themen for the commodity he has sold, he gives it back if he has it with him, and takes good money. If he has spent it, he cannot demand good money.

If a bird lays eggs in an orchard or an ownerless animal enters it, the eggs or the youngs that hatch from them or the animal that enters it will belong to the buyer, not to the owner of the orchard. If the owner of the orchard sees it and closes the door, it will be his property. Supposing sweetmeats and coins are thrown about at a place, each person will be the owner of the ones that fall on them. If a swarm of bees settles or a tree grows in an orchard or streams of water carry and heap sand in it, the honey or the tree or the sand will be the property of the owner of the orchard.

If a khodja (teacher) [or an imâm or a muazzin] collects money from his pupils [or from the worshippers making up the jamâ'at, respectively,] for the purpose of buying mats, [etc. that they need to perform their duties,] it will be permissible for him to personally utilize the money remaining from the amount spent for buying those things. For, the money collected has been given into his possession. Ibni 'Âbidîn, vol. 5, p. 271. [Money given to charity organizations is a donation of this sort. It is not a transaction of deputation.][1]

Luqâta means property that has been found on the ground and whose owner is not known. It is sunnat for a person who is sure that he will deliver it to its owner to pick it up in order to protect it. If it is something that will perish should it be left on the ground, it is farz to pick it up. The person who picks it up requests two people to be his witnesses, asking them to send him any person they should see looking for his lost property. Then, describing the property he has found among a crowded audience, he embarks on

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[1] Please see the thirty-ninth chapter.

a search for its owner. If it perishes as he keeps it until its owner shows up or until it begins to decay with time, he will not have to compensate for it. If he senses that its owner will not show up or fears that it will decay, he needn’t search for its owner any longer. He gives it to the Beyt-ul-mâl. If there is not a Beyt-ul-mâl (in his country) and he himself is a rich person, he gives it to his poor parents, children and/or wife as alms. If these people give it to him as a present, he himself may utilize it. According to the Shâfi’î Madhhab, he may utilize it without first having to give it to the aforesaid people. If he is poor, he himself may utilize it anyway. If later its owner appears, he (the owner) either consents (to what has been done), or has the person who has found it or the poor people (who have benefited from it) compensate. Plenty of thawâb (rewards in the Hereafter) will be awaiting the party who consents or the one who compensates for the benefits reaped, (as the case may be.) It is stated as follows at the end of the chapter dealing with Luqâta in the book entitled **Fatâwâ-i-Hindiyya** as well as in the book entitled **Durr-ul-munteqâ**[1]: “When (bills or) pieces of money or sweatmeats are thrown about, what each person seizes or takes from the ground or from on someone else will be his property. If a person going out of a public place sees that his shoes, etc. have been taken away, it will not be permissible for him to wear the ones left in their place. It will be permissible if he takes them away, gives them as alms to a poor person, and the poor person gives them as a present to him.” It is always permissible for anyone to eat the fruits that fell onto the street from the trees in an orchard, regardless of whether the orchard is in a city or in a village, unless the owner is known to have forbidden to eat them.

The following pieces of information have been borrowed from the book entitled **Majalla**:

Article 912–If a person slips, falls, and thereby destroys someone else’s property, he will have to compensate for it.

Article 914–If a person destroys someone else’s property by thinking that it is his own property, he will have to pay for it.

Article 915–If a person pulls at someone else’s suit and tears it, he will have to pay the value of the entire suit. If he only grabs it and it tears with the owner’s tug, the grabbing person will pay half the suit’s value.

Article 916–If a child destroys someone’s property, the

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[1] It was written by ’Ala’ud-dîn Haskafî, (1021, Haskaf – 1088 [1677 A.D.].)

compensation must be made from the child's property. If it has no property, the owner of the destroyed property will have to wait until the child owns property. The child's walî (guardian) does not have to pay for it.

Article 918–If a person demolishes someone's building, he will either buy the ruins by paying the value that the building had before its destruction, or indemnify the loss incurred, the owner retaining the ruins in his possession; the choice is to be made by the owner of the building. The same rule applies to a harm incurred by felling (someone else's) trees.

Article 919–A person who demolishes a house on fire to execute a government decree issued to stop the fire will not have to pay for the demolition. If he did the demolition on his own, he will compensate.

Article 921–The wronged person will not have the right to respond by wronging (other people). Both people will have to pay. For instance, a person who has been given counterfeit money cannot give it to someone else.

Article 922–A person who causes destruction of someone's property will compensate for it. (For instance,) if a person opens the stable door and causes the animal to bolt, he will have to pay for the harm incurred, e.g. for the horse thereby lost. So is the case with someone who frightens an animal and causes it to escape.

Article 924–If a person digs a well on the road and causes someone else's animal to fall into it and die, he will pay for it. He would not have to pay if the well he dug were within his own estate.

Article 926–A person who harms a passer-by will pay for the harm.

Article 927–It is not lawful to sit and sell things by the wayside without the government's permission.

Article 928–If a person's wall collapses and harms someone's property, he will have to pay for the harm if he was warned that his wall would collapse and told to repair it.

Article 929–Harm made by an animal not set loose will not be paid for by its owner in case the animal did so on its own. However, he will have to pay for it if he did not stop the animal although he saw it being harmful or if he was warned that his animal was a hazardous one and he had better take precautions.

Article 934–No one has the right to tie their animal or park their car on the road. Stables and parking-lots must be used for this purpose.

Article 1013–Co-owners of a building are called holders (or owners) of a **hissa-i-shâyi'a**. Supposing half of a building belongs to Ahmad, one-third of it belongs to 'Umar, and one-sixth of it belongs to 'Alî, and Ahmad sells his hissa-i-shâyi'a, and 'Umar and 'Alî want to buy it. 'Umar will buy half of the hissa-i-shâyi'a, and 'Alî will buy the other half. That the hissa-i-shâyi'a already owned by 'Umar is twice 'Alî's share cannot be grounds for his buying twice the amount (to be bought by 'Alî).

Article 1023–The right of **shuf'a** (pre-emption) does not apply in cases of unrequited assignments of property such as unreturned gift-makings and bequeathals. [Please see the final section of this chapter!]

Article 1031–When a person with the right of shuf'a hears of the sale, he has to claim his right immediately, repeat his claim in the presence of two witnesses, and hold court within a month.

Article 1036–Upon the buyer's redelivery or the judge's decree, the person with the right of shuf'a will pre-empt the building for sale.

Article 1198–A person cannot cause their neighbor (a heavy harm that is termed) **dharar-i-fâhish**. Something that hinders fitness for use is a dharar-i-fâhish. If a blacksmith shop or a flour mill causes the adjacent building to quake or the smokes from a baker's or the noisome vapours from an oil mill or the dusts from a threshing field cause the neighboring house to become impossible to live in or the waterway of a watermill or vegetable garden loosens the foundation or walls of the adjoining house or a rubbish heap corrodes the walls of a bordering house or a tall apartment house built on the windward side of a threshing field blocks out the wind coming to it or the smokes from a restaurant made near a cloth-seller's damage the textiles in it or the leakage from the sewer of a house damages the walls of the neigbouring house; each of these harms incurred is a dharar-i-fâhish, and in each instance the one that is (to be) built later must be prevented.

Article 1201–It would not be a dharar-i-fâhish to prevent a house from enjoying the landscape or sunlight, whereas it is a dharar-i-fâhish to completely darken a room.

Article 1202–It is a dharar-i-fâhish to cause the kitchen, the mouth of the well or the empty space between the two houses to be seen. It is necessary to build a wall or put a screen in between.

Article 1210–A wall commonly owned in between cannot be heightened or used for building something on it by one of the

neighbours without the permission of the other.

Article 1224–The already existing roads, waterways and sewerages cannot be tampered with unless a dharar-i-fâhish is involved.

Article 1226–A person may revoke his permission. For instance, if he has consented to a prassageway through his field, he may give up and prevent it.

Article 1228–He cannot prevent an already existing passageway through his field or people’s entering his field for the purpose of repairing it. He may prevent a new passageway being opened.

Article 1243–Trees and grass in the mountains are mubâh for everybody. The trees will be the property of the person who fells them.

Article 1249–A person who obtains something that is mubâh will be its owner. Obtaining something is done on purpose, intentionally.

Article 1255–No one can prevent another from obtaining something that is mubâh.

Article 1265–The seas, great lakes and rivers, and ownerless land areas and mountains far away from towns are mubâh for everybody. But it is a condition not to harm others.

Article 1281–A person who digs a well in the country will be the owner of its **harîm**, which is the area surrounded by a circle with a radius of twenty metres and centering around the well.

Article 1291–A well within a town does not have harîm. Everyone may dig a well in their own property.

Article 1311–In case one of the partners who share the ownership of something makes repairs to it without the permission of the other partners if they are present, or of the judge on behalf of the absent partner, he cannot claim anything from the partners.

Article 1313–In case indivisible property such as a mill, a public bath, or an apartment building becomes decrepit and one of the partners owning a share from it will not accede to the repair to be made, it will be repaired with the judge’s permission and the demurring partner’s share of the expense will be collected from him.

Article 1314–When a building commonly owned collapses, anyone who will not consent to its being rebuilt commonly cannot be forced to agree. The building plot must be divided and shared.

Article 1315–When an apartment building collapses, everyone will have their storey repaired. If the person owning the lowest storey does not have his storey repaired, the people will have the entire building repaired with the judge's permission, and the person who owns the lowest storey will not be allowed to use his storey unless he pays his share (of the expense).

Article 1321–Ownerless rivers will be cleared of their refuse by the Beyt-ul-mâl. If the Beyt-ul-mâl does not have the money needed, the expenditure will be collected from people utilizing the river for irrigation.

Article 1327–Expenditure for clearing the waste matter in commonly used sewerage is to be started with its lowest user. That is, the clearing business will be started with the lowest house or building plot, and all the people utilizing the system will commonly pay for the clearing of the lowest one. People who occupy the lower parts do not have to join the expenditure for the parts upward from them.

People who study Islam's jurisprudence see with great admiration the paramount importance which Islam attaches to social justice, equality, rights and freedom. With a view to presenting for consideration Islam's strictness concerning human rights and property right, we have deemed it appropriate to cite a few articles from **Majalla**, as follows:

1192–Everyone uses their property as they wish. However, this freedom has to be confined within limits bordering on others' rights. For instance, in Islam there is the right of owning a flat in an apartment house. However, the owner of the uppermost flat has a share in the basement of the apartment house, and the owner of the first floor owns a share on the roof. One of them cannot demolish his own flat without the other's consent.

1194–A person who owns a building plot owns also the space overhead as well as the earth vertically below it. He may have a building as tall as he likes constructed or dig a well as deep as he likes within that plot.

1196–If the branches of a tree in the yard of a person's house extend over his neighbour's house or houseyard, his neighbour has the right to have the branches pulled back with a rope hoisted over them or sawn off. But he cannot have the tree felled only because its shade stunts vegetable growth in his yard. Âtif Bey explains this article as follows in his commentary published in 1330 [1912 A.D.]: "The neighbour requests the owner of the tree or applies to the

judge and has the branches pulled back or sawn off. The neighbour may as well saw off the ones extending over his yard on his own, without making an application. If he damages the tree by sawing off the branches not extending over his yard, he will pay the owner of the tree for the harm he has made. If he saws off branches without making the request or the application and while it would be possible to have them pulled by hoisting a rope over them, he will, again, have to compensate for the harm. Supposing he requested the owner of the tree to pull the branches back and the latter declined, then the owner of the yard may not only have the branches sawn off on his own, but also demand the cost of the sawing from the owner of the tree."

1200–If leakage from the sewer of a house causes damage to the neighbour's house, the owner of the leaking sewer has to have the sewer repaired.

1212–If a person digs a cesspit near someone else's water well and the cesspit contaminates the water in the well, the cesspit is to be done away with, unless there is a possible way to repair it.

1216–A person's house may be bought with the order of the government and the building plot may be added to the construction of a road. However, the house cannot be expropriated unless its value is paid.

1248–There are three ways of owning property: The property belongs to someone, and you get possession of it by way of a transactional agreement such as a purchase, a donation, an almsgiving, a gift-giving. It transfers into your possession without a business agreement, but otherwise, such as by way of inheritance. You obtain something without an owner and which therefore is mubâh for everyone; it is your property now.

1254–Grass and trees that are mubâh can be used by everybody. No one can prohibit them. In case using them will somehow be harmful to others, it must be prohibited to make use of them.

1288–If a shopkeeper's sales decline because of another shop set up besides his shop, he cannot have that second shop banned.

1297–A wild game will belong to the person who catches it. If a game shot falls, gets up, runs away, and then gets caught by someone else, it will belong to the person who has caught it.

1308–Maintenance of property commonly owned is to be financed by the people who own it commonly, varying directly as their shares. In the absence of one of the two shareholders, the one

who has done a repair, if he has taken the judge's permission to do so, may ask his partner to defray his share of the expense.

1312–Maintenance of rivers, lakes and dams devolves upon the Beyt-ul-mâl, i.e. the State. If the State's finance is insufficient, the amount needed is collected from people who make benefit from them.

950–The right to buy back property sold to someone else by paying the price spent for its purchase, is termed **shuf'a** (pre-emption). Person with this right is called a **shefî'**.

1008–Three people can be a shefî' each: First, person who holds a share in the property to be sold. Second, person who holds a share in the right to use the property to be sold. Third, person who owns the property adjacent to the property to be sold. Owners of the flats of an apartment house are in a very real sense neighbors adjacent to one another. When a person sells a building that is his own property, a shefî' who hears of the sale, (if he wishes to use his right of shuf'a,) has to state immediately that he is a shefî', informing both the seller and the buyer in the presence of two witnesses, and go to court within a month. This having been done, the first shefî' has priority to buy the property. It cannot be sold to someone else. In case the first shefî' is absent or does not want to buy the property, the second shefî' buys it. If the second shefî' is absent, either, then the property will have to be sold to the third shefî'. If the third one does not want to buy it, either, then the first buyer will retain it.

1017–The right of shuf'a does not apply in sales of movable things or of property situated on waqf or mîrî land. (These two kinds of land will be explained in the forty-fourth chapter.)

It is stated as follows in the book entitled **Fatâwâ-i-Khayriyya**: "A house with two rooms and a roof terrace at the top of it. Its owner sells one of the rooms and dies. The inheritors sell the other room to someone else. The roof terrace is the common property of the two people, each having an equal share. Neither one of them can develop the roof terrace into a separate room without the other one's permission. Supposing the front room of a house belongs to someone and the back room belongs to someone else. In that case the two people own the roof terrace or the yard commonly on a fifty-fifty basis." It is stated in the same book: "Each of the two storeys of a building has a different owner. If the lower storey becomes decrepit, its owner cannot be forced to get it repaired. The owner of the upper storey may have the lower storey repaired if he wishes. The owner of the lower storey will not be

allowed into his flat unless he defrays the expenditure if the other person has made the repair by the court's verdict, and unless he pays the value if the other person has made the repair on his own." "The owner of the upper storey may build another storey on top of his own, unless he does not cause damage to the lower storey."

It is stated as follows in the book entitled **Hadîqa**, in its section dealing with the disastrous retributions incurred with hands: "It is called **ghasb** to extort a person's property by force or without that person's permission. Not only is ghasb harâm in itself, but also it is harâm to use property obtained by way of ghasb. It is harâm to take and use someone else's property without permission, even if you return the property intact. If someone trusts you with their property or money for safekeeping, or if you extort someone's property or money, it is not permissible for you to make profit from it by investing it in trade or elsewhere. An earning made thereby is harâm. You have to give it as alms to the poor. It is also harâm to take and hide someone else's property or money as a joke. For, a joke of that kind will cause a person to suffer grief. And it is harâm to torment a person."

It is stated in the book entitled **Fatâwâ-i-Fayziyya**[1]: If a father spends his small children's money buying things for himself although he is not in need, the children, when they reach puberty, may ask him to compensate for it. It would be permissible for him to spend it buying things for himself (without having to compensate for it) if he were in need."

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[1] It was written by Feyzullah Efendi of Erzurum 'rahmatullâhi ta'âlâ 'alaih', (martyred in Edirne in 1115 [1703 A.D.],) the forty-sixth Ottoman Shaikhulislâm. He also translated Mawlânâ Khâlid Baghdâdî's book entitled **I'tiqadnâma** into Turkish and entitled it **Îmân ve Islâm**, which was published by **Hakîkat Kitâbevi** in Istanbul a number of times. Its English version, **Belief and Islam**, is available from Hakîkat Kitâbevi.

34 – STATEMENTS MADE BY STIPULATING CONDITIONS

It is stated as follows in the final sections of the chapters dealing with **Bey' wa Shirâ** (Buying and Selling) in books of Fiqh:

There are fourteen things that are not permissible to do when conditions are stipulated:

1– Bey' (sale): It is fâsid to sell a house by stipulating that you will live in it, say, for a month.

2– Ijâra (renting): It is fâsid to rent something to someone by stipulating that that person should lend you (money, etc.)

3– Taqsîm (dividing, distributing): As an inheritance is being divided (and dealt out to the inheritors), it is not permissible to stipulate that certain things should be given to certain people.

4– Ijâza (permission, authorization): If a person sells another person's property and the owner of the property says to the former person that he will accept the sale if he, (i.e. the former person,) should give him, say, a hundred liras as a loan or as a present, this ijâza, i.e. permission, becomes bâtil.

5– Rij'at (retreat): It is void to make (a contract of marriage termed) nikâh with your former spouse, whom you have divorced, by stipulating that you should be given some money.

6– Sulh (compromise) by way of property exchange: It means to say, for instance, "If I (am allowed to) live in your house, I will not ask you to pay me your debt."

7– To write off a debt; that is, to say, for instance, "I will not ask you to pay your debt to me if my father comes back from the expedition."

8– To excuse a deputy, i.e. to say, for instance, "I will excuse you (from being my deputy) if you give me a present."

9– I'tikâf (retirement)[1]: It is not permissible to say, "I will

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[1] I'tikâf means to retire from your social surroundings and live in seclusion, e.g. in a mosque where daily prayers of namâz are performed in jamâ'at, spending your time performing acts of worship. Women perform it at home, not in a mosque. It is an act of sunnat. The duration of i'tikâf advised in a hadîth-i-sherîf is ten days. Recommended acts of worship to be performed during i'tikâf are performing namâz, reading (or reciting) the Qur'ân al-kerîm, dhikring, saying tesbîh and tehlîl, meditating over the greatness of

perform i’tikâf if my invalid relative recovers.” And it would be a **nazr** (vow) to say, “I will perform i’tikâf for ... days for the grace of Allâhu ta’âlâ if my invalid relative recovers.”

10– Muzâra’a (share cropping): To say, “Farm my land (as a share cropper) if you also lend me some money.”

11– Musâqât: To say, for instance, “I will put my trees or vines to your care so that you water and tend them for a share from the produce, on condition that you lend me money.” **Musâqât** means to consign your trees or vines to someone’s care so that he will look after them in return for a share from the crops.

12– Iqrâr (confession, acknowledgement): To avow that you owe a person (some money or property) by asking money from him.

13– Waqf: To say, for instance, “I will devote my house as a waqf if the person I am awaiting, (e.g. my son, brother, etc.) arrives.”

14– Tahkîm (appointing an arbitrator or judge): To say, for instance, “Arbitrate between us if ... comes true.”

There are twenty-eight things that are permissible to do although conditions have been stipulated, and yet the conditions stipulated must not be fulfilled:

1– Qardh (loan): You (can) give a loan on condition that you will be served (by the debtor) for some time, but the condition stipulated must not be carried out.

2– Hiba (gift-giving, donation): It is permissible to say, “I will give you this animal as a present on the proviso that its young will be mine.” In that case the young also will be a present.

3– Sadaqa (almsgiving): To say, “I will give you alms on the condition that you will serve me for a while.”

4– Nikâh (marriage contract prescribed by Islam): It is sahîh (valid) to perform a nikâh made conditional on that the mahr will not be paid. The mahr-i-mithl will be paid in that case.

5– Talâq (divorce, dissolution of nikâh): To say, “I have

Allâhu ta’âlâ, reading Islamic books such as those telling about the life of our Prophet and those of the Awliyâ, and doing whatsoever will be useful for other people, e.g. preaching. It is forbidden to spend time only sitting, doing nothing, thinking of nothing, or talking nonsense.

divorced you on the condition that we will not marry each other (again).” They can marry each other again later.

6– Khul’ (divorce made conditional on being mukhayyer): If a person says to his wife, “I have divorced you on the condition of a one month’s option,” he has divorced her.

7– ’Atq [or ’Itq] (manumition, emancipation): Once a person has said to his/her slave that he/she has manumited his/her slave with a three-days’ option, he/she has manumited his/her slave.

[Slavery is a system by which prisoners of war are made servants instead of being killed. No one other than a prisoner of war can be a slave. It brings plenty of thawâb (rewards, blessing in the Hereafter) to manumit a slave. Islam does not make anyone a slave, except for the enemy that assaults with the sheer motive to kill. And then it emphatically commends people who manumit the slaves thereby taken captive. Islam is not a religion that wages slavery; on the contrary, it deters slavery.]

8– Rehn (pawn, pledge): To say, for instance, “I have pledged my house to you, provided that I shall reside in it.”

9– Îsâ (appointing an executor): To say, “I have made you my wasî (executor), provided that you will marry my daughter.

10– Wasiyyat (bequeathing): To say, for instance, “I bequeath you some of my property if so and so gives me permission to do so.” The bequest will have been realized, the permission being needless.

11– Shirkat (partnership): To say, for instance, “I will make you my partner if you give me a present.”

12– Mudâraba (sleeping[1] partnership): To say, for instance, “If my father comes back (from the long journey he is taking), I will give you a thousand gold coins. Use it in trade, and half of the profit will be mine.”

13– Being a Qâdî: To say, for instance, “I have appointed you as Qâdî on the condition that you shall not dismiss anyone from office.”

14– Governorship: To say, for instance, “I have appointed you governor of Van (a city in Eastern Turkey).”

15– Kafâlat (suretyship): To say, for instance, “If you give me a present, I will stand surety for so and so, who is indebted to you.”

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[1] ‘Silent partnership’ in American English.

16– Hawâla (transfer): To say, for instance, “I have transferred you, concerning such and such matter, to so and so, with the proviso that you shall not drink the coffee that that person may offer you.”

17– Wakâlat (proxy, deputy): To say, for instance, “I have appointed you my deputy, providing that you will write off my debt to you.”

18– Iqâla (withdrawal from an agreement): To say, for instance, “I have withdrawn from the agreement, on the condition that you should give me some money.”

19– Kitâbat (slave emancipation recorded in court): An example of this is a master’s saying to his slave, “I have promised you kitâbat in return for a thousand liras, on the condition that you shall not go out of this city.”

20– A master’s saying to his slave, for instance, “I have given you permission to engage in trade, on the condition that you will not buy such and such commodity.”

21– A man’s saying to his jâriya, for instance, “The child you are to deliver is mine, if my wife accedes to it.”

22– Forgiving a murderer: When the walî (guardian, protector) of a victim of premeditated murder forgives the murderer on the condition that the murderer should buy him a present, the murderer will be absolved and the present needless.

23– A wounded person’s forgiving the culprit by stipulating a condition.

24– Being a dhimmî: An example of it would be to say to a disbeliever, “I have made you a dhimmî, provided so and so will consent to it.

25– To say, for instance, “I will return your defective commodity, (that you have sold me,) if so and so approves of it.”

26– To say, for instance, “I will return your commodity, (that you have sold me,) on the basis of the condition that I stipulated for being mukhayyer, if so and so approves of my doing so.”

27– I will dismiss the qâdî from office if so and so asks me to do so.

28– Bey’: A sale performed on a condition that would be useless for both the seller and the buyer, is sahîh, and the condition stipulated is not to be fulfilled. A few examples are: To sell someone an animal, (e.g. a horse,) by stipulatinig that he should

not sell it or give it as a present to someone else or that he should not put it out to pasture or that he should not ride it; to sell a suit on the condition that the buyer should not wear it; to sell food by stipulating that the buyer should not eat it himself (or herself) or that it should not be sold to someone else. It is always sahîh to make a purchase when the seller stipulates that the property he sells you should not be sold to someone else, and all sorts of conditions stipulated in such cases are bâtil.

Also, a sale made on a condition that would be at least useless, if in some likelihood not harmful, to someone, is sahîh, the condition stipulated being bâtil. An example is to buy a house on the condition that you will demolish it.

Also, a condition that will be useful to someone other than the seller and the buyer is bâtil, and a sale (made on that condition) is sahîh. For instance, when something is sold on the condition that the person who buys it should make a loan to a third person, the sale will be sahîh, and the buyer will not have to make the loan stipulated.

A sale performed on the condition that someone other than the buyer should make a loan or give a present to the seller is sahîh, and the loan and the present is needless.

There is a long and detailed list of things that are permissible when conditions are stipulated in the commentary of the eighty-second chapter of **Majalla**.

35 – SALE by SELEM

It is a sale agreement made to buy a certain mebî' at a certain place after a certain time by paying a certain themen (price) in advance. The mebî' is the seller's deyn. For instance, when a person says to another person, "I have given you as selem, (i.e. in advance, on the spot,) fifty liras in return for which you shall deliver me a hundred bushels of such and such quality wheat at such and such place on such an such date," and the seller (of the wheat) says that he has accepted the deal, or if the seller says, "I have sold you ten litres (or ten kilograms) of walnuts as a (sale by) selem for ... kurushes," and the buyer says that he has (accepted the deal and) bought the wallnuts, the (sale by) selem has been accomplished. The amount of themen (price) has to be stated, although it is ready. The (sale by) selem is sahîh when the property is something whose likeness exists at the market throughout the time between the moment when the deal is made and the moment when the property is (to be) delivered, whose quality and amount can be specified, i.e. which can be measured by capacity, by weight or by number, and which assumes the attribute of ta'ayyun when it is made ta'yîn of, (i.e. which would retain its identity as an 'ayn and would not turn into a deyn when it were specified during the deal.) As with any other kind of deyn, the kind, i.e. the name, the quality, and the amount of the property are stated and thereafter it is sold by selem. That is, it is sold on credit for ready money. The unit of measure must be a widely known one. The sale by selem by counting is not practicable with items of various sizes, such as water-melons, pumpkins, firewood, fish, pomegranates, and quinces. It is practicable with those measured by weight or by capacity. Things whose size does not vary and whose prices do not differ much are saleable by selem by being measured by capacity or number. Rotten ones among commodities such as eggs and walnuts will not detract from their countability. The genus, the kind, and the quality of a varying commodity, such as meat, soap, earthenware, paper, and textile, have to be stated. If it is silk material, its weight also has to be stated. Next year's agricultural produce may be different from the current year's crop. Therefore, it is not permissible to sell next year's wheat by selem, since its likeness does not perpetually exist in the market. Nor can a certain village's wheat be sold by selem, whereas a certain city's wheat can be. No animal, with the exception of fish, can be sold by selem. But an animal can be (used as) the themen (price) in a sale by selem. A sale by selem is not permissible with things whose exchange

entails fâiz (or fâidh). However, it has been permitted to sell things that are measured by weight by selem in return for money, i.e. gold and silver. For instance, whereas the (sale by) selem of iron in return for cotton is not permissible, it is permissible (to sell it) by selem in return for gold. Gold and silver are measured by weight even after they have been finished. By contrast, finished articles of other metals are measured by number. For that reason, it is permissible to sell a copper basin in return for copper lumps on the basis of on-the-spot payment, different as their weights may be. Yet the same sale would not be permissible by selem. Since gold and silver coins do not assume the attribute of ta'ayyun when they are made ta'yîn of, (i.e. since they will not remain as an 'ayn when they are used as an 'ayn during the deal,) they are not mebî'; so they are not sold by selem. Yet these things may be used as themen in a sale by selem. [According to Imâm Muhammad 'rahmatullâhi ta'âlâ 'alaih', copper coins, which are called 'fulûs', fall into the same category as gold and silver. On the other hand, according to the ijtihâd reached by the Shaikhayn, (i.e. Imâm-i-A'zam Abû Hanîfa himself and his other blessed disciple Imâm Abû Yûsuf) 'rahmatullâhi ta'âlâ 'alaihimâ', the 'fulûs', depending on the user's intention, may go out of the state of themen (price) and become items of qiyamî property like 'urûz, (i.e. any sort of property, living and lifeless alike, with the exception of gold and silver.) They will assume the attribute of ta'ayyun when they are made ta'yîn of. They are sold by selem, their measurement being done by counting, which means to say that they can be sold by selem in return for gold or silver or any other property. Hence, it is sahîh (sound, valid) to exchange paper lira bills, i.e. to buy them, for gold or silver coins or (gold or silver) articles of ornamentation. This soundness requires postponing the delivery of the paper lira bills, with the proviso that the postponement should be longer than a month's time, and taking possession of the gold or silver at the time of agreement.] The property to be sold by selem can be paid in instalments on certain dates. The themen (price), however, regardless of its being an 'ayn or a deyn, has to be delivered promptly and completely at the place of agreement. That is why this kind of sale has been called **selem**. The sale by selem will not be sahîh if the whole themen is not given on the spot. If a person says to his debtor, "You owe me ... Turkish liras. Let it be the selem (price paid in advance) for ... litres (or kilograms) of wheat," it will not be a sahîh (sale by) selem. For, the themen is a deyn that has not been taken possession of at the place of agreement. The

postponement (of the delivery of the commodity) in a (sale by) selem should be for a length of time one month minimum. A (sale by) selem where the commodity is delivered on the spot is not permissible. An option (being mukhayyer) cannot be stipulated in a (sale by) selem. Nor will you be mukhayyer upon seeing the mebî' (commodity). Both parties may agree and desist from the (sale by) selem, in which case the seller will have to return the themen or pay its mithl or likeness. If a commodity sold by selem disappears from the market before the time of delivery comes, the buyer will have the choice to wait until it reappears in the market or desist from the sale and take his money back, instead of having to accept something else to replace his purchase. The mebî' may be transferred to someone else. Neither the themen nor the commodity can be turned to account in a (new) sale before it is taken possession of by the seller or by the buyer, respectively. Nor can the buyer sell the commodity that he has bought by selem (and which he has not yet taken possession of) to the seller. He can, however, give it to him as a present, taking the themen back.

36 – ISTITHNÂ’ (Commissioning Things Made)

It is a business deal in which you order something made by a person skilled in making it by describing to the artisan how you want it. The material needed rests with the artisan. If the customer provides the material, what falls on the artisan is workmanship. In case the artisan offers something made by someone else, it will be sahîh if the customer accepts it. It is not essential to assign a date when the bespoken article should be accomplished. When a period of time longer than a month is stipulated, the business being done becomes a sale by selem. With commodities that are usually made to order, such as shoes, clothes, boats, cupboards, metalware, and houses, the istithnâ’ (commission, order) made is sahîh if a time limit has not been put or the period of time stated is shorter than a month. With commodities that are generally not made to order, when the period of time that has been stated is longer than a month, the business transaction involved is a (sale by) selem. An agreement of selem performed without the time of delivery having been stated becomes fâsid. In istithnâ’ it is permissible to pay the money in advance, or a payment in sporadic instalments may be stipulated. If certain regular instalments are stipulated, what is being done is a (sale by) selem. If the customer, (i.e. person who has made the order,) does not like the thing made upon seeing it, he may refuse to buy it. When it is a selem, neither party can be mukhayyer. Both parties may desist before the building is started. After the building has been started, only the artisan, (i.e. the builder,) may desist. He cannot desist once he has shown it to the customer. The customer may reject it if he sees that it has not been made commensurately with his description. The author ‘rahmatullâhi ta’âlâ ’alaih’ of the book entitled **Bahr-ur-râiq** states as follows: “If a person asks a builder to build a house for him, describes how he likes the house, and promises that he will pay its market value determined by an expert, and yet if the builder demands a payment higher than the value determined, he will have to deliver the house and accept its market value.” [Hence, as a deal of istithnâ’ is being made, it is not an essential condition to determine the price. If it has been determined, it is permissible for the artisan to demand a higher price afterwards; in this case, however, it will be necessary for the two parties to agree on the market value determined by the expert.] In case one of the parties dies, the istithnâ’ becomes bâtil. That is, it becomes null and void. In that event a rental would be bâtil similarly.

[It is not permissible to sell property that does not exist. For this reason, it is not permissible to give your building plot to a contractor and get, in return, a flat in the apartment house he is to build on it. By the same token, a building that a contractor plans to make cannot be bought before it is constructed. That building or the flat in the aforesaid apartment building cannot be bought by way of selem, either, before the construction. For, something that does not (perpetually) exist in the market until the time of the delivery of the commodity comes and something that does not have a mithl are not saleable by way of selem. However, it is permissible to have the building constructed by the contractor by way of istithnâ', and it is quite simple, too. As a matter of fact, it is written as follows in the thirty-seventh [37] article of the book entitled **Majalla**: "People's accepted, customary practices hold a documentary position. It is wâjib to follow them." That is, it is wâjib to follow customs that are not forbidden by Islam. It is stated in its three hundred and eighty-ninth [389] article: "It is sahîh to practise istithnâ' in situations wherein istithnâ' has been a customary practice." That is, if the time of the delivery of the building is not certain or if less than a month has been given, it is sahîh according to a consensus (of scholars). If the length of time given is more than a month, istithnâ' is still sahîh according to the two imâms, (i.e. Imâm Abû Yûsuf and Imâm Muhammad.) To adapt the practice to the aforesaid articles, a certain part of the building plot; say, two-thirds of it, is sold on credit to the contractor as a **hissa-i-shâyi'a**. (Please see article 1013 in the thirty-third chapter!) In return for the money that you are to get from the contractor, you have the contractor build the flat you want, by way of istithnâ'. For, it is permissible to have a house built by way of istithnâ' in one's own building plot. The project and plan of the house or flat to be built by way of istithnâ', as well as the kinds and brands of the materials to be used, have to be known and determined beforehand, during the bargaining.

It is stated as follows in the book entitled **Fatâwâ-i-Fayziyya**, in its section dealing with 'ijâra': "Supposing (someone named) Zayd makes a deal with a builder to build a room with certain dimensions in Zayd's own building plot and by using Zayd's own material and pays him the money in advance, it will not be permissible for the builder to demand extra payment after building the room. It would be permissible if the builder had used his own material, [i.e. if the deal had been made by way of istithnâ'.]" This example shows that it is permissible for a person to have a house

built in his own building plot by way of istithnâ'.

One of the two methods to be employed by a person who does not have a building plot to capacitate himself to buy an apartment flat by paying its themen (price) in advance before it is built, is to have recourse to istithnâ'. Another method is for him to trust the themen to the contractor for safekeeping. The **'aqd** (agreement, bargain, deal) of sale is made after the construction is completed. It is written in the two hundred and fifteenth [215] article of Majalla that it is permissible for the contractor to integrate his own 'hissa-i-shâyi'a' in the building plot or the flat into the commodity for sale. Please see the eighth chapter of the sixth fascicle of **Endless Bliss**!

If the time to pay the zakât comes before the completion of the house to be built in return for a themen to be paid on the spot, the zakât will not (have to) be paid. As for the zakât for the themen that is mu'ejjel, (i.e. the themen that will be paid later,) the builder pays one-fortieth the money he has hitherto spent.

Each and every Muslim has to memorize and learn well the initial hundred articles in the book entitled **Majalla** so that they should observe the rules dictated by Islam in their daily transactions.

The book **Majalla** contains an introduction and sixteen chapters, consisting of eighteen hundred and fifty-one [1851] articles in all.

The introduction contains a hundred articles dealing with **Basic Teachings on** (the Islamic branch of) **Fiqh**.

The first chapter, from the hundred and first through the four hundred and third article, enlarges upon matters of **Bey' and Shirâ**.

The second chapter deals with matters of **Rental** and covers articles till the six hundred and eleventh.

The third chapter provides information on matters of Standing **Surety** and continues until the six hundred and seventy-second article.

The fourth chapter, teachings of **Hawâla** (transfer), goes on until the seven hundredth article.

The fifth chapter, **Rehn** (pawn, security), ends by the seven hundred and sixty-first article.

The sixth chapter is on **Emânat** (safekeeping). It ends by the eight hundred and thirty-second article.

The seventh chapter is on **Hiba** (gift-giving, donation) and continues until the eight hundred and eightieth article.

The eighth chapter, **Ghasb** (extortion, usurpation) and **Dhârar** (harm, damage), continues until the nine hundred and fortieth article.

The ninth chapter is **Hijr** (separation) and **Ikrâh** (threat, duress) and continues until the ten hundred and forty-fourth article.

The tenth chapter, **Business Partnerships** and **Social Sciences**, continues until the fourteen hundred and forty-eighth article.

The eleventh chapter deals with **Wakâlat** (proxy, being a deputy), and continues until the fifteen hundred and thirtieth article.

The twelfth chapter, **Sulh** (peace, agreement) and **Afw** (forgiveness), continues until the fifteen hundred and seventy-first article.

The thirteenth chapter, **Iqrâr** (confession, declaration, admitting), continues until the sixteen hundred and twelfth article.

The fourteenth chapter, **Da'wâ** (lawsuit, action), continues until the sixteen hundred and seventy-fifth article.

The fifteenth chapter, **Ithbât** (proof, proving) and **Yemîn** (oath, swearing), continues until the seventeen hundred and eighty-third article.

The sixteenth chapter, **Judgeship**, continues until the eighteen hundred and fifty-first article.

Three renowned jurists, namely 'Alî Haydar Bey, (d. 1355 [1937 A.D.];) 'Âtif Bey, (d. 1316 [1898 A.D.], Suleymâniyya, Baghdâd;) and Hadji Rashîd Pâsha 'rahmatullâhi ta'âlâ 'alaihim ajma'în', wrote three different commentaries to **Majalla**, and each of these three expository treatises were printed in varying volumes. Western orientalists who read these treatises admire Islam's jurisprudence and the subtlety and multiplicity of the array of Islam's social teachings.

'Âtif Bey makes the following explanation in the eleven hundred and fourteenth and later articles of **Majallâ**:

Qismat means division of property rent commonly owned by way of hissa-i-shâyi'a among its co-owners. If the co-owners cannot reach an agreement in the division of property that is an 'ayn and which has been mixed with other property of the same

kind, the property in question will be divided by the judge, (i.e. by court,) when one of the co-owners demands it. As will be explicated in the forty-fourth chapter, there is fâiz (interest) in dividing things that are measured by capacity or by weight without measuring them. It will not be sahîh to divide a deyn. The judge cannot undertake the division of property that would involve harm on account of other kinds of property that have been mixed with it and which will in consequence act on the division. The co-owners can divide such property by working out an agreement among themselves. Or, they can sell it and share out the money. When the property concerned is a building, its value is determined and then divided into shares with equal values. Should anyone happen to get a share more valuable than another's share, the one who has gotten the less valuable share will be given half the difference, in money. **Muhâyaa** means an arrangement and sharing in the benefit and use of an 'ayn [property] commonly owned, the property itself maintaining its *status quo*. Muhâyaa is not practicable in mithlî property. Muhâyaa in property such as a house and a field is arranged on the basis of time or place. In case an agreement on how to arrange a time-or-place-based sharing cannot be reached, lots are drawn. Muhâyaa is not practicable with 'ayn property such as trees, wool, and milk. If muhâyaa is arranged in these things, the resultant shares will not be halâl even if the people who get the shares forgive each other for the difference of value in their shares.]

Nothing in the world is comparable to sovereignty.
Yet no sovereignty is like a breath taken healthfully!

37 – LENDING

Lending, which is termed **qardh-i-hasan**, is an act that yields plenty of thawâb (rewards, blessings in the Hereafter). **Qardh-i-hasan** means to lend anything that has a mithl, i.e. a likeness, in the market, with the understanding that its mithl (likeness, equivalent) will be returned after an indefinite period of time. Lending becomes sahîh upon îjâb (proposal, offer) and qabûl (acceptance), [i.e. an agreement that is made by uttering the expressions “I have taken...” and “I have given...”. A person who has borrowed one gold coin will return one gold coin. He cannot return its former or current value in silver coins or paper lira bills on the premise that its value has changed. Nor would he be accredited to return gold in lieu of those things. It would be permissible, however, with the creditor’s consent. If a person does not return his debt although he has the wherewithal to do so, his creditor or someone else may take it from him by force. When the debt is returned, if the voucher is the creditor’s property, he gives a receipt to confirm that the debt has been returned. If a person in his deathbed has a number of creditors, he divides it among all of them. If the debtor says to the creditor, “Give me my hundred-lira promissory note and I’ll give you ninety liras in return,” and the creditor gives the note unwillingly, he may demand ten more liras. In case the zuyûf, i.e. currency other than gold and silver, e.g. paper bills, that you lent to someone, lose their value after you have lent them, the debtor, according to the Imâmeyn (Imâm Abû Yûsuf and Imâm Muhammad), will have to pay gold or current money whose value is equal to that which the fulûs had when you lent them. As is written in the section dealing with sale of sarf, a fatwâ agreeable with the ijtihâd of Abû Yûsuf has been issued that the same rule applies in changes of value. So is the case with changes of value of everything measured by capacity or by weight. A person cannot demand the debt that someone owes him from a third person who is indebted to his debtor. It is fâsid to lend qiyamî property such as a house, a shop, an animal, clothes, which do not have mithls, (i.e. likenesses, equivalents in markets;) such things must be returned immediately. It is harâm (for the lender) to use them. It is harâm also to sell them. However, it will be sahîh (if they have been sold by the lender). For, they have been the buyer’s property once the buyer has gotten possession of them. The value of the qiyamî property that has been borrowed has to be paid. The statement, “I owe Ahmad a hundred liras,” would not suffice to verify that the person who made that statement were in debt. The cause and the

manner of the indebtedness also would have to be stated.

The following excerpt has been borrowed from the (Turkish) book entitled **Hamza Efendi Risâlesi Şerhi**: “A certain time of repayment should not be appointed as a loan is being made. For, to appoint a certain time of repayment would in effect mean to sell a commodity for its mithl, (i.e. likeness, equivalent,) on credit, which in turn would involve fâiz (interest). By not putting the date of payment on the promissory note, the lender will infinitely retain his right to recover his loan without having to wait until a certain time. Lending should be done without appointing a certain time for recovery, and what has been lent should be demanded and taken back at will. Some people are ignorant to comment that asking one’s debtor to return his debt will eliminate the thawâb to be earned by lending. It is permissible to demand your right without hurting your debtor or rubbing it in. Breaking someone’s heart is a sin in itself.” A person who borrows should not put a date on the promissory note that he is to give. A person who buys something (on credit) should put the date of payment on the promissory note he is to give. If it is inevitable that there be the date of payment on the promissory note so that you can recover the money you have lent, then you ask your would-be debtor to get someone to stand surety. With that person you make a deal on that he will make sure that the payment should be done on a certain date. For example, you get a promissory note bearing the surety’s signature and guaranteeing that the payment will be done on a certain date. That it is permissible for the debtor to pay his debt on the same date as the person standing surety is to do the payment, has been stated (by Islamic scholars). A more commendable way, however, is for the person standing surety to first do the payment himself and thereafter get the money he has paid from the debtor. Or, the debtor transfers his debt to someone indebted to him. If the payment of the debt of the person to whom the new debt has been transferred is due on a certain date, that person will pay the new debt to his creditor’s creditor on the same date (as he is to pay his own debt). If there is not a certain time appointed, the creditor makes a deal with the person who has accepted the transfer on the date of payment. If this person, (i.e. the person to whom the debt is transferred,) is not himself indebted to the debtor, then the debtor signs a promissory note avowing that he is indebted to him and promising that the debt will be paid on a certain date, and hands him the promissory note. Thus both debts are paid on the same date. In this example, the debtor gives the promissory note

not to the creditor, but to the person who has accepted the transfer. If the creditor wants the promissory note with the date of payment written on it to be given to him, he gives the money he is to lend as a present to a trustable friend of his. Then that friend of his gives the money to the person who wants to borrow it, telling him to transfer his debt to the owner of the money. The owner of the money accepts the transfer, writes a date of payment he prefers on a promissory note, and gives it to his friend. Thereupon the debtor gives the owner of the money a promissory note with the same date of payment on it. Then the person who has accepted the transfer returns his friend's promissory note, saying that he has donated the money that his friend owes him, as a present to his friend. Or, he sells something cheap to the person who needs the loan, for a price equal to the sum he is to lend, on credit, and certifies (the debt for) the sale made by taking a promissory note with a certain date of payment on it. Then he buys that thing back for the same price as he sold it, paying the money on the spot. [Please see the final section of the thirty-first chapter!] It is stated as follows in the six hundred and twentieth [620] page of the book entitled **Hadîqa**: "It is permissible for a person to sell something, even if it is a piece of paper for a thousand Turkish liras, to a person to whom he is to lend money. It is not even makrûh." It is written in **Eshbâh**: "One of the ways of legalizing it to put the date of payment on the promissory note when lending, is to imitate the Mâlikî Madhhab. It is necessary, according to the Mâlikî Madhhab to state the date of payment when lending. It is stated as follows in **Mîzân-ul-kubrâ**: "In the Mâlikî Madhhab, property lent or the themen of a sale cannot be demanded before or after the date of payment. They must be demanded on time." However, imitating a Madhhab other than your own is permissible only at times of quandary. And then you will have to learn and follow all the precepts of that other Madhhab you will be imitating.[1] It is written in the five hundred and ninetieth [590] page of the first volume of the annotation rendered by **Shaikhzâda Muhammad bin Mustafâ** 'rahmatullâhi ta'âlâ 'alaih', (d. 951 [1544 A.D.],) to the book entitled **Anwâr-ut-tanzîl**, which had been written by (Qâdî 'Abdullah bin 'Umar) **Baydâwî** 'rahmatullâhi ta'âlâ 'alaih', (d. 685 [1286 A.D.], Tabrîz): "The word 'mudâyana', whose lexical meaning is 'being indebted', in the âyat-i-kerîma, means

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[1] Please see the thirty-ninth chapter of the fourth fascicle of **Endless Bliss** for particulars and details in imitating another Madhhab.

‘mu’âmala (dealing with one another, transaction)’, that is, ‘bey’ and shirâ (selling and buying)’. This can be done in one of the following four ways: A sale of an ’ayn for an(other) ’ayn, which is not a mudâyana (sale). A sale of a deyn for a(nother) deyn, which is (a sale that is termed) bâtil. A sale of an ’ayn for a deyn, which, as we know, is a sale on credit. A sale of a deyn for an ’ayn, which is a sale by selem. In these (last) two ways of sale a promissory note is written to define a certain date of the payment of the deyn. Lending is not categorized with these two kinds of sale. It is not permissible, in the Hanafî Madhhab, to state a certain date (of payment) when lending. If the date of payment is stated, fâiz (interest) will be involved (in the transaction performed).

When lending, a benefit stipulated will involve fâiz, which in turn is harâm. It is permissible to give something additional as you pay your debt although it was not stipulated (during the lending). Ibni ’Âbidîn ‘rahmatullâhi ta’âlâ ’alaih’ states as follows before starting his discourse on lending: “If a person asks another person to stand surety for his debt to so and so and the latter accepts it and pays the debt, the latter, (i.e. the person who stood surety,) may say to the debtor that he should pay him on a certain date. On the other hand, if the debtor asks him to pay his debt to so and so and the latter accepts it and pays the debt, it will not be permissible for the debtor to pay it to him on a certain date. For, the latter has paid the debt on the debtor’s behalf and the debtor is now indebted to him. And it is not permissible to pay a debt on a certain date.”

The author ‘rahmatullâhi ta’âlâ ’alaih’ of the book **al-’Uqûd-ud-durriyya** states as follows: “It is fâsid to let one’s creditor to reside in one’s house without paying a rental. He will have to pay an ajr-i-mithl. If a person gives his house as a security to his creditor and tells him that he may reside in it, a payment will not be necessary. If he rents out the security to his creditor, the security will be fâsid. It is makrûh tahrîmî for the creditor to benefit the security. If a woman lets her son to reside in her house on the proviso that he will repair the house, he will have to pay an ajr-i-mithl to his mother if he lives there for years and evacuates the house without repairing it.”

The great Islamic scholar Khayr-ad-dîn Remlî Hanafî ‘rahmatullâhi ta’âlâ ’alaih’, (993 [1585 A.D.], Reml – 1081 [1670], the same place,) is quoted to state as follows in the book **Fatâwâ-i-Khayriyya**: “If a person lends fifty liras to a dhimmî and (later) takes back fifty-five liras with the interest, he will have to return the extra five liras. For, fâiz (interest) is harâm in all religions.”

Abd-ul-Wahhâb Sha'rânî 'rahmatullâhi ta'âlâ 'alaih', (d. 973 [1565 A.D.],) states as follows in his book **Mîzân-ul-kubrâ**: "Lending is (one of the commendable acts termed) mustahab in all four Madhhabs. If a person is to get the price of a sale (he has made) a certain time later, it is not permissible for him to forego some of the money he is to be paid in order to get the rest ahead of time. Nor is it permissible for him to take some of it ahead of time so as to delay taking the rest until a time later than the time of payment. It is permissible, however, (to wait until the time of payment and) take some of it and delay taking the rest until some time later or forego it." Concerning the themen (price) of a sale performed on the basis of an on-the-spot payment, it is permissible to say, for instance, "If you pay half of it now (or tomorrow), let the rest wait until next year."

During or after lending, it is not permissible for the lender to acquiesce in being paid the debt in instalments. A creditor who has acquiesced in getting his dues long-term in instalments is accredited to go back on his word. He may demand all in one payment. The debtor has to pay all the debt at once if he is capable of doing so, even if he holds a promissory note proving that he is accredited to pay it in instalments. If the debtor denies some of the debt, it will be permissible to (accept to) take the possible remainder a certain time later. It is not permissible to postpone the payment of mahr-i-mu'ajjal, either. (Please see the twelfth chapter!) All of it is to be taken by the woman (to be married) or by her inheritors. It is permissible to ask the debtor to get someone (trustworthy) to stand surety or for the person who has stood surety to pay the debt on certain dates.

Not only is it forbidden to lend on the proviso that the debt should be returned on a certain date, but also it is permissible for the creditor to demand to be paid the debt before the appointed time of payment. (In the Mâlikî Madhhab it is not permissible for the creditor to accept a present from the debtor, to eat the food he offers, or to get any sort of benefit from him, even if these interests have not been stipulated at the time of lending. In the Madhhabs of Shâfi'î and Hanbalî, these benefits are permissible unless they have been stipulated at the time of agreement.) According to some scholars in the Hanafî Madhhab, such benefits are permissible for the creditor to derive unless he stipulates them beforehand; other scholars, however, stated that accepting presents from the debtor would not be something permissible even without a previous stipulation. The former, (i.e. the ijtihâd ruling

the permissibility,) is the way of fatwâ and is applicable to cases where the debtor is someone who habitually gives presents to the person who happens to be his creditor in this instance. The latter has been intended for people of taqwâ.[1] The person to borrow has to be discreet and must not be under hijr.[2]

It is permissible for the debtor to buy something for a high price from the creditor after the lending has taken place although it was not stipulated during the lending; but it is makrûh. Shems-ul-aimma Hulwânî 'rahmatullâhi ta'âlâ 'alaih', (d. 456 [1064 A.D.], Bukhâra,) stated that it would be harâm to do so. However, before the agreement of lending takes place, it is permissible to buy something such as textile for fifteen hundred liras although it is worth a thousand liras and, after parting, come back and borrow four thousand liras (from the same person); and in that case one will owe fifty-five hundred liras to the seller. Otherwise his debt would normally be five thousand liras. As is stated in the book entitled **Durr-ul-mukhtâr**, there is a scholarly clause stipulating that the difference should not be more than five percent so that a transaction of that sort be permissible. If the lending is done so as to induce a difference more than five percent, or, in clearer terms, if the price of the property the creditor is to sell by way of **mu'âmala** before the lending is more than five percent the money he is to lend, it is harâm, and anyone who lends money likewise is to be imprisoned. Ibni 'Âbidîn 'rahmatullâhi ta'âlâ 'alaih' quotes these lines from the book entitled **Durr-ul-mukhtâr** and provides a detailed explanation. He states that a fatwâ giving a latitude of up to a difference of fifteen percent in the sales by mu'âmala was issued at the Sultân's behest, names the scholars who said that it was permissible, and gives the titles of great books of Fiqh. It is stated as follows in the chapter dealing with sale of sarf in the book entitled **Fatâwâ-i-bezzâziyya**: "A person who is in need and who wants to borrow money by way of 'ribh' sells a certain commodity for, say, ten liras to his would-be creditor and delivers the commodity to him, and later the person to lend the money sells that commodity for twelve liras to that person; this mu'âmala is permissible. It is better to perform the sale after the lending. If the commodity is in the creditor's possession, he sells this to the person who wants to borrow money from him for, say, twelve liras

[1] Taqwâ means strict avoidance of acts that are harâm.

[2] Hijr means to ban someone from making certain agreements or from doing certain acts.

on credit, determining the time of payment as he wishes. When the latter takes possession of the commodity, he sells it to a third person for ten liras and delivers it. That person sells it for ready money to the lender, and gives him the commmodity. Then he pays his debt by giving the ten liras that he gets to the person who wants to borrow money. It is stated in the book entitled **Bahr-ur-râiq**: "If a person wants to get, say, thirteen liras a certain time later in return for the ten liras he is to lend now, he buys something for ten liras from his debtor, (paying the money on the spot and) taking possession of the thing he has bought; then he sells that thing on credit for thirteen liras to his debtor."

Islamic courts of law would accept cases of sale for formality (mu'âmala) when the differences were below fifteen percent. For instance, copies of some hundred decrees enacted by the Islamic court of law in the time of Sultân 'Abd-ul-mejîd Khân 'rahmatullâhi ta'âlâ 'alaih', (1237 [1821 A.D.] – 1277 [1861],) the thirty-first Ottoman Sultân and the ninety-sixth Islamic Khalîfa, are written in the book entitled **Durr-us-sukûq**, (written by Muhammad 'Azîz and) printed in 1288 A.H. The following excerpt has been borrowed from the sixty-fifth [65] page of the second volume: "Alî Agha (an Ottoman citizen) declares before Velî Agha (another Ottoman citizen): 'Velî Agha, present here, has delivered to me three thousand kurushes (Ottoman Turkish coins) out of his property, and so I have taken possession of the money delivered. This money, with the addition of four hundred and fifty kurushes as the themen (price) of the one-volumed book entitled **Qudûrî**, which I have bought from the same person, Velî Agha, on credit for a period of one year from now, all adding up to thirty-four hundred and fifty kurushes, is my deyn (debt to him).' And it has been ratified as such." It was considered permissible because four hundred and fifty kurushes had a value fifteen percent that of three thousand kurushes.

It has been stated (by Islamic scholars) that it is permissible to lend by using a method termed **'iyna** in order to avoid the sinfulness incurred by paying or receiving interest. Ibni 'Âbidîn states as follows at the end of his discourse on the sale of **sarf** and **kafâlat**: "In the sale called 'iyna the rich person sells a commodity worth ten liras for, say, twelve liras on credit to the poor person. The poor person takes possession of the commodity and sells it for ten liras to be paid on the spot to a third person, thereby earning ten liras. Now he owes twelve liras to the rich person. This formality is permissible according to Imâm Abû Yûsuf. It is

written in the book entitled **Fat-h-ul-qadîr** that it is not even makrûh. It is not permissible according to Imâm Muhammad. It is stated in the books **Hadîqa** and **Berîqa**: "'Iyna means to sell a commodity on credit and then buy it at the same sitting from the buyer cheaply and by paying on the spot. That kind of sale has been called **sale by 'iyna** because the second themen (price) is an 'ayn; that is, it is paid on the spot. If the two themens are agreed on and stipulated beforehand, it is harâm by consensus (of Islamic scholars). If they are not stipulated beforehand, it is permissible according to the Shâfi'î Madhhab. It will be permissible if the buyer sells that commodity to a third person at the same sitting. A hadîth-i-sherîf reads as follows: '**If you practise the sale by 'iyna, and if you give up jihâd and engage in agriculture, Allâhu ta'âlâ will humiliate you. You will not be relieved of that humiliation unless you return to your faith!**' This hadîth-i-sherîf points to the sale by 'iyna that is harâm. The Sahâba practised the sale by 'iyna that is halâl. For instance, a rich person sells a commodity to a poor one who needed to borrow money for, say, two thousand liras on credit. Then he sends him a third person, who buys that commodity from the poor person for a thousand liras, for himself. Then, selling the commodity to the rich person for a thousand liras, he transfers the poor person to the rich person. Then the rich person, in his turn, pays the thousand liras trasferred to him to the poor person. When the day of payment (for the aforesaid sale on credit) comes, the rich person takes the two thousand liras from the poor person. This kind of sale was commanded by Rasûlullah 'sall-Allâhu ta'âlâ 'alaihi wa sallam'. This fact is written in the book entitled **Qâdî-Khân**."

[It is stated in **Bahr-ur-râiq**: "It is permissible for a person in need to borrow money on interest." Yet it is harâm to lend him on interest. [**Eshbâh**]. People who do not have and cannot earn their subsistence are called 'people in need'. Islam recognizes this need as a 'darûrat'. [Eshbâh]. If a poor person in this state cannot find (someone to lend him) **qardh-i-hasan** without interest, and if no one will lend him on interest because it is harâm to do so, it is permissible to lend him by way of mu'âmala and 'iyna in order to protect him from destruction, according to authorized Islamic scholars. It is not permissible to borrow on interest for the purpose of obtaining property more than one's subsistence, e.g. for buying a house or establishing a capital, or to lend him by way of (formalities termed) 'mu'âmala' and ''iyna'.] Please see the second article in the forty-fourth chapter!

Lending by way of selem is not permissible; in other words, it is not permissible, for instance, to lend the peasants money as the themen (price) in advance for dirt-cheap (property sold by way of a sale termed) selem and, (when the harvest is reaped,) to buy large quantities of the new year's crops, such as wheat, beets, and cotton, in return for the money. Nor is it practicable to sell the next year's produce that does not exist in the markets by way of selem. Lending money to villagers by way of this prohibited way of selem is worse than lending by way of **mu'âmala** or **'iyna**. It is pernicious to village life.

Property given in the name of 'âriyat is property lent. In fact, 'lending' means 'giving as an 'âriyat'. 'Âriyat means 'to give something for temporary use'. The property itself will be taken back (if it has been given as an 'âriyat). Property lent, on the other hand, is taken back in mithl; i.e. what is taken back is the themen. [It is stated in **Majalla** that **'âriyat** is property given for (temporary) use free of charge.]

Money handed by saying, "Take it and spend it," without any mention of a 'present', is a loan. Clothes given by saying, "Take these and wear them," have been given as a present.

A person is the possessor of a loan once he himself or his deputy has taken possession of it. The giver cannot demand back what he has given. It is stated in **Fatâwâ-i-Hindiyya**: "It is permissible to use a loan before taking possession of it." The debtor has to return the mithl, i.e. likeness, of the property or money he has borrowed. Before returning his debt, [not the property itself that he has borrowed,] he may buy it from his creditor for ready money, and yet not on credit. He may sell the loan to his creditor. Likewise, in case some measurable property or money is due to a person on account of other property sold, a loan lent, property inherited, a gift donated, alms given, or a wage earned, it is not permissible for him to sell it on credit to his debtor or to someone else; it is harâm. If he receives its themen (price) at the place where he has made the deal, he has sold it for ready money, (i.e. on the basis of payment on the spot.) And then this sale is permissible only to his debtor. Hence, at a money-changing transaction, one of the items (exchanged) has to be taken possession of in advance. Only, when a movable object is bought, it is not permissible to sell it even for ready money to anybody before taking possession of it. As is seen, when a person who has borrowed property cannot find its likeness so that he may return the loan, he will have to make an agreement to give other property

or money in lieu of it, and in that case he will have to give it immediately at the place where that (new) agreement is made. It is harâm for the parties to make an agreement on the understanding that the property or the money may be given later. In order to avoid committing an act of harâm, the creditor buys an insignificant amount of property on the basis of ready money from his debtor in return for the debt owed to him, takes possession of his purchase, and sells it for the same amount of money on credit to his debtor. If they cannot reach an agreement, they wait until its likeness is found. Please see the final section of the twenty-ninth chapter! If a person borrows wheat and the price of wheat changes much thereafter, he will have to pay the same amount of wheat. Supposing a person owes a hundred liras to another person; it is fâsid for the creditor to buy property worth a hundred liras from the debtor on the proviso that the purchase will not be balanced off with the debt due to the creditor.

The book entitled **Majmû'a-i-jedîda** cites the following passage from the book **Qâdî-Khân**: "If a person owes a hundred liras to another person as a result of borrowing, extortion, or buying, and thereafter lends a gold coin to his creditor, it is permissible for them to sell their dues, [i.e. the hundred liras and the gold coin, respectively,] to each other. Their selling such debts of different kinds to each other is as if they were possessed of the so-called items of property and were selling them to each other. It is, in effect, the same as if they delivered the hundred liras and the gold coin to each other. Their exchange of debts is as if they exchanged what actually were in their possession. By the same token, if a person who owes four gallons of wheat to another person lends his creditor four gallons of barley, it will be permissible for them to sell their debts in wheat and barley to each other." Please see the middle section of the forty-fourth chapter!

It is permissible to lend meat, weighing it, and bread, weighing it or counting the loaves, etc.

When a creditor sees his debtor's property, he may take it without the latter's permission, if it is a likeness of the property that the latter owes him. As well, a third person may take it and deliver it to the creditor.

If a person who owes fifty gold coins to another person entrusts fifty gold coins to his creditor, the fifty gold coins entrusted cannot be counted as the payment of the debt unless both parties consent to it.

A person’s debt may be repaid by someone else. If the certificate of debt is the debtor’s personal property, he may demand it back. A debt lent cannot be divided into instalments that are of certain amounts and which are to be paid on certain dates. The debtor will pay off his debt by paying whenever he can and in whatever amount he can. However, if he transfers his debt to someone else, the person who accepts the transfer may pay the debt in certain instalments.

In return for property borrowed, the themen on which both parties agree can be paid in ready money. Thereby the borrower will have bought the property from the creditor by paying its price on the spot.

The debtor cannot repudiate his debt by taking advantage of the creditor’s having lost the promissory note. By producing two sâlih witnesses, the creditor proves at the court that that person owes him the money. Incidentally, lending must be done in the presence of witnesses. (Please see the tenth chapter of the fourth fascicle of **Endless Bliss** for a brief definition of the word ‘sâlih’.)

The debtor has to pay his debt at the place where he borrowed it or at a place found suitable by the creditor.

No one can be forced to pay someone else’s debt unless he has accepted to stand surety (kafâlat) or to be transferred the debt (hawâla). An inheritor cannot be forced to pay the debt of the dead person out of his own property. An insane person and a child are not eligible for a loan. It is stated in the book **Bahr-ul-fatâwâ**, in the section dealing with hiba (donation, gift-giving): “[It is (a kind of) fâiz to charge one’s debtor to see to the official formalities that one has to follow in person.] When the debtor does that job, it will be bribery to write it off from his debt. The amount written off may still be claimed (by the creditor).” It is stated in **Fatâwâ-i-Fayziyya**: “A woman who gives some of her personal property to her husband and asks him to sell it and spend the money earned buying food for the family, will have appointed her husband her deputy to sell her property and given him the money earned, (i.e. the themen,) as an ’âriyat. Mithlî property given as an ’âriyat is a (kind of debt termed) qardh-i-hasan.”

One can act as someone’s **wakîl** (deputy, proxy) to get the money to be lent to them, and not as their wakîl to ask for a loan on their behalf. For that matter, supposing twenty people had appointed one of them among themselves to get the money lent to them, he would have to return one-twentieth of the money he had

been given. The rich creditor could not ask him to return all the money by reason of his having been given all the money. It is permissible to send a **rasûl** (messenger) to someone to ask for a loan from him. If the messenger who asks for the loan from the rich person says that he is asking it for himself, he will be doing it as the borrower's wakîl (deputy), which in turn is not a permissible practice. If he says to be given the loan for the poor person (who has sent him), or if he takes the money by saying, for instance, "So and so requests of you to lend him some money," he will be doing it as the borrower's rasûl (messenger). He will be the borrower's wakîl if he says, for instance, "(Please) lend me some money for so and so," or only, "(Please) lend me some money." The same rule applies in buying and selling. If the person sent performs the agreement in his own name, he is the wakîl. If he does so in the name of the person who has sent him, he is the rasûl.

It is harâm for a person who has property not to pay his debt, little as the debt may be. Offenders of that type are to be imprisoned, kinsfolk, women, and children alike. The only exception is one's parents; they will not be imprisoned for their (unpaid) debts to their children. A person in prison will not be allowed to go out for prayers such as Friday, 'Iyd, and Janâza or for visiting invalid people. He will be kept in prison until he pays his debt or proves that he is (too) poor (to do so).

It is stated as follows in the initial section of the second part of the book entitled **Fatâwâ-i-Khayriyya**: "When a person owning property does not pay his debt, he will be imprisoned. If he insists on not paying it, he will be kept in prison till he pays it, according to Imâm a'zâm (Abû Hanîfa). According to the two Imâms, (i.e. Imâm Abû Yûsuf and Imâm Muhammad,) the Qâdî (Judge) will sell out his property, e.g. his house, and pay his debt (on his behalf). Thereafter he will be released from prison. The (conclusive answer termed) fatwâ agrees with that latter ijtihâd. Beating is not permissible." If the owner of the upper storey (of a building) repairs the lower storey with the permission of its owner, he demands the expense from its owner. If the latter refuses to defray the expense, he will be sent to prison.

It is stated as follows in the six hundred and fifty-sixth [656] article of the book entitled **Majalla**: "In case the debtor wants to move to another country before the date of payment of the themen, he will have to get someone to act as a surety or to give something as a security if the creditor applies to the judge for a surety or security. If the former refuses to do so, he will be banned

from setting for a (long-distance journey termed) safar (or sefer). A surety will not be demanded from a debtor who does not plan to move to another location. If a person has accepted the debtor's request to act as a surety for him, he may say to the debtor who decides to leave for another location, 'Either pay your debt to me or to the creditor, or get the creditor to excuse me, and thereafter (you may) leave!' " It is stated in its sixteen hundred and ninth [1609] article: "If a person writes a promissory note of debt, or has it typewritten, signs or seals it, and gives it to another person, it will be as binding as his verbal confirmation if it has been written compatibly with rules and customs. In case he denies the debt written on the promissory note while admitting that the promissory note belongs to him, his denial will be overruled and he will have to pay the debt."

It is stated as follows in the thirty-second [32] article of the enforcement law enacted in 1296 [1879 A.D.]: "If it is determined by way of attestation or denunciation that the debtor who declines to pay his debt ownes property, the court of law sends him to prison or distrains his property." It is stated in its sixty-fifth [65] article: "The money obtained from the sale of the chattels or property is spent primarily for the payment of the costs of the distraint, and thereafter the debt is paid." It is stated in the thirteenth [13] article of the Stamp Act: "The revenue stamp duty for the receipts is to be paid by the borrower." Ibni 'Âbidîn's 'rahmatullâhi ta'âlâ 'alaih' explaining that it is permissible for judges and muftîs to accept payment for the promissory notes and documents they write out leads inexorably to the conclusion that it is permissible for either one of the lender or the borrower to defray the expenses that are involved in lending, such as promissory notes, etc., depending on customary practices.

Asking for a loan is permissible only in cases of necessity. There are three categories of necessity:

1– (An absolute necessity, termed) luzûm-i-îjâbî. A person's asking for a loan in order to earn a living that is halâl because he is deprived of the means of living or because his means of living is dubious, (i.e. his earnings may be harâm.) Also in this category of loan is money for buying clothes in order to cover the awrat parts of one's body. (Please see the eighth chapter of the fourth fascicle of **Endlesss Bliss** for the term 'awrat parts'.

2– (A rational necessity, termed) luzûm-i-'aqlî. A person's asking a loan in order to buy or rent an inhabitable house,

depending on the environmental fashion, because he does not have one. Money to buy clothes for protection against cold falls in this category.

3– (Necessity of outward respectability, termed) luzûm-i-istihsânî. To ask for a loan in order to be dressed up in a manner representable for one's social status, convenient for one's job, and/or commensurate with one's social surroundings. It is permissible to ask for a loan without interest in cases within these three categories. And lending is justifiable only when it is done in cases of necessity that fall within (any one of) these three categories. Others, cruel and fâsiq people should not be lent anything. A loan is given to a person who needs it. It is not given to a person who will not need it, to a spendthrift, or to a person who will spend it committing harâm. It is not wise to lend to others if it will cause you financial trouble. If a person does not have nisâb amount of property or money, it is not permissible for him to ask for a loan so that he may perform (the act of worship called) Qurbân. (Please see the first and the fourth chapters for the terms 'nisâb' and 'qurbân'.)

"Be thou!" said that Sovereign, far in eternity,
And made a marvel be from none, that Almighty,
And attached the title 'Rûh' to that beauty,
Poor others heedless of that reality!

For, that was not something of the world of matter;
It was not something that Hudâ made out of matter.
Bade it as follows, Rabb, the real helper:
"Command thy nafs; let it not be thy commander!"

So the 'Rûh' did, listening to the Glory's bid.
See how it did accurately as it was bid:
Obeying the Divine Bidding; so splendid
It was, as it higher and higher proceeded.

Around the love of Haqq it revolved, flying;
Saw many a world, its trip highly enjoying.
Found a world ahead of him, boundlessly lying;
So vast it was, far beyond the 'Arsh extending.

Boundless, measureless, and with no extremety;
The 'Arsh, Hell and Paradise within its country.
There manifested all sorts of reality;
Ethereal, lightsome, its total entity.

38 – KAFÂLAT and HAWÂLA
(SURETY and TRANSFER)

To be (a) kafîl or **dhâmin** (to stand surety) means for a (third) person to promise responsibility for the payment of something that is claimed from someone by a certain person or by certain people. The item to be paid may be an 'ayn or a deyn, as well as the delivery of a person. It is essential that the creditor be known. The kafâlat transacted by saying, for instance, "I stand surety for whatsoever anyone sells to so and so," will not be sahîh. Hence, promissory notes of debt cannot also stand for promissory notes of kafâlat because the subsequent creditor is not determined as they are being written. The final creditor cannot claim anything from the person who wrote out the promissory note of debt or from the one who endorsed [or transferred] it. It is not permissible to stand surety for compensation in cases of (damage or) loss suffered through goods that are entrusted to someone by way of agreements termed rehn (giving as a security), vedî'a (giving for safekeeping), 'âriyat (lending for temporary use), and renting, or through a (commodity for sale, termed) mebî'. It is permissible for the delivery of these goods when they are existent (and intact). The person who acts as a surety will not have to pay anything in case these goods perish (or are destroyed). It is permissible to act as a surety for the tenant in an ijâra, (i.e. rent, rental,) or for the person who has accepted the transfer in a hawâla, (i.e. transfer.) Also, one may stand surety for payments such as themen and mahr. The creditor, (i.e. person accredited with these rights,) may extract these rights from the debtor as well as from the surety, depending on his own choice. It is premissible for a Muslim to act as a surety for a (non-Muslim citizen called) dhimmî. Not only would it be an unconditional instance of acting as a surety to say, "I stand surety for such and such amount of debt that so and so owes to so and so," but also it is permissible to act as an unconditional surety by saying, for instance, "I will pay you the money that so and so owes you if he himself does not." According to three Madhhabs, (i.e. the Madhhabs of Mâlikî, Shâfi'î, and Hanbalî,) and also according to Imâm Abû Yûsuf (of the Hanafî Madhhab), kafâlat will be sahîh upon a statement only on the part of the person to stand surety. It is not conditional on the debtor's and the creditor's accepting that person's acting as a kefîl (surety). However, the creditor may refuse the surety when he hears it (or of it). A surety not accepted by the debtor, (if he has had to pay

the debt because the debtor himself has not paid it,) cannot demand what he has paid from the debtor; nor can he get the debtor imprisoned if he himself is imprisoned as a result of not paying it. According to the **Tarafeyn**, i.e. according to Imâm Abû A'zam Abû Hanîfa and (his disciple) Imâm Muhammad, the kafâlat's being sahîh requires the kefîl's offering and the creditor's or his deputy's accepting it in the presence of the kefîl (surety). In case of a darûrat, Imâm Abû Yûsuf's ijtihâd must be had recourse to. It is sahîh also to stand surety for (someone's standing) surety. The creditor may demand the debt from any of the three people. It is permissible also for several people to act as separate or joint sureties for a debtor. A person who has been made a surety under duress is not a surety. Standing surety for a certain thing does not require knowing its kind and amount. It is not sahîh to act as a surety for debts that do not require payment, such as bribes, gambling debts, themen for non-saleable things such as (the corpse of an animal that is called) a 'lesh' (because Islam prohibits to eat it), and a free man. One would not be a surety (kefîl) by saying, "I am the kefîl if your house collapses," or by saying to your guest, "I am the kefîl if your (saddle) beast perishes." When an agreement of kafâlat is made conditional on the debtor's not being responsible for the payment, an agreement of 'hawâla' has been made, (which will be explained four paragraphs ahead.) If a person acting as the debtor's surety with the debtor's order makes an agreement with the creditor and thereupon pays an amount short of the sum owed, he may demand the amount he has paid, from the debtor. If he pays something else, he may demand (from the debtor) what he has been standing surety for, not what he has paid.

The blessed author 'rahmatullâhi ta'âlâ 'alaih' of the book entitled **Fatâwâ-i-imâdiyya** states: "If a person stipulates a condition whose fulfilment will be of benefit to him in return for a certain manner of payment of the property he is to stand surety for, the kafâlat (the agreement for acting as a surety) will be sahîh, and the condition stipulated will be bâtil (null and void), unless the kafâlat itself has been made dependent on that condition. If the surety stipulates that condition for the kafâlat itself, the kafâlat will not be sahîh, either." As is seen, a kafâlat made by saying, for instance, "I will stand surety if you pay me money or property, (or if you join me in my business;) otherwise I will not stand surety," will not be sahîh. For that matter, not only is the charge made for issuing a **letter of credit** forbidden, but also an agreement of kafâlat thereby made will not be sahîh. It is permissible, in case of a darûrat, (for a Muslim

living) in the Dâr-ul-harb to appoint a disbeliever, in case of a darûrat, as a surety likewise, and the money paid for it will fall into the category of bribery. It is permissible for the person to stand surety to demand a security from the debtor. If the debtor dies before the date of payment, the debt will have to be paid immediately by his inheritors, or on the date of payment by the kefîl (surety). If the kefîl dies, his inheritors will have to pay the debt immediately. If the creditor dies, his inheritors will be paid the debt on the date of payment. If the creditor forgives the debtor his debt or postpones a payment that must normally be done immediately, the surety also will have been forgiven (or absolved from having to pay immediately, and) payment on his part will be postponed. If a person has accepted to act as a surety on the condition that the debtor will be forgiven his debt, the agreement has turned into one of hawâla (transfer); yet that is not something that will also absolve the kefîl from the responsibility. If the kefîl is forgiven or his debt that must normally be paid immediately is postponed, this will not cause the debtor to be forgiven his debt or immediate payment of his debt to be postponed. But the kefîl cannot demand anything from the debtor. If the creditor says that he has donated the debt as a present or as alms to the kefîl, the kefîl may demand it from the debtor.

A person can stand surety for any sort of debt that is (normally) to be paid immediately by stipulating that it will be paid later. In that case, the debtor will still have to make an immediate payment of his debt that is a loan. If the kefîl transfers the debt to someone else and the creditor accepts it, both the kefîl and the debtor will be absolved from the debt.

The author ‘rahmatullâhi ta’âlâ ’alaih’ of the book entitled **Durar-ul-hukkâm** states as follows in his explanation of the sixteen hundred and fourteenth [1614] article of **Majalla**: “There are two kinds of property for whose edâ, i.e. payment, one may be standing surety: 1– Standing surety for property that is an ’ayn. 2– Standing surety for property that is a deyn. Extorted property is an ’ayn. In other words, it is property in actual fact. It can be stood surety for. If an ’ayn perishes, the kefîl, (i.e. the person standing surety,) will pay its equivalent. As for a deyn; it is not property in actual fact before it is obtained. For, it is not something existent or something that can be reserved. It becomes property when it is obtained. And only thereafter will it be possible to use it. Therefore, it is sahîh to donate it as a present to the debtor, without his having to accept it. Supposing a person without any ’ayn property in his possession is owed debts by others. If that person swears an oath that he does

not have any property, he will be sâdiq in his oath, (that is, he will be true to his oath;) he will not be a khânith (perjurer).” (Please review chapter 6.)

Kafâlat in (matters of Islam’s Penal Code termed) ’Uqûbât[1] is not sahîh. Capital punishment, for instance, cannot be inflicted on the person standing surety for a person sentenced to death. It is permissible to stand surety for a certain period of time. An unconditional surety cannot desist from standing surety. It is sahîh to stand surety for a person who has entrusted you with something by stipulating that payment will be made from the property you have been entrusted with. The creditor cannot demand from you, (i.e. the surety,) something more than the property entrusted.

When the debtor plans to move to another place before the time of payment comes, the creditor may go to the court and demand that the debtor appoint a surety or security. If the debtor declines the demand the judge may ban him from leaving for the journey. Even a person appointed as surety by the debtor himself may get the debtor banned from the journey. When a person who has acted as a surety without being appointed by the debtor [or without the debtor knowing about it] pays the debt, he cannot demand it from the debtor. Business of buying and selling through a bank (or letter of credit) is not permissible in (a country called) Dâr-ul-islâm.

HAWÂLA (Transfer) – It is a business transaction in which the debtor **transfers** his creditor to a third person by telling him to take his debt from so and so and by that second person’s, i.e. the creditor’s, accepting the transfer at the place of agreement. If the creditor is not present at the scene of agreement being made between the debtor and the third person, who has accepted to undertake the debt, the hawâla will not be sahîh according to the Tarafeyn, (i.e. Imâm A’zam Abû Hanîfa and his blessed disciple Imâm Muhammad,) even if he consents to it when he hears of it. It is essential that he be present and give his consent at the place of agreement. A deyn whose amount and kind are known is transferrable. It is not permissible to transfer an ’ayn or a right. If a person says to another person to whom he is not indebted, “Go to so and so and get the money that he owes me,” this transaction will not be a hawâla (transfer). Rather, he will have made him his deputy to get possession of the money due to him. (For the case to be one of hawâla,) the first person, the one who has made the

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[1] Please see the tenth chapter of the sixth fascicle of **Endless Bliss**.

hawâla, will have to be indebted to the person receiving the hawâla; in other words, the person who has been transferred, i.e. the second person, who has received the hawâla, will have to be a creditor of the first person. The third person, i.e. the one who has accepted the hawâla, may or may not be indebted to the first person.

There are three kinds of hawâla:

1– Mutlaq hawâla is the one in which it is not stated that the third person, i.e. the person who accepts the hawâla, is indebted to the first person, i.e. the one who has given the hawâla, or that the third person is in possession of something, such as a vedî'a, that belongs to the first person. If the first person has not stated that the third person is indebted to him or that the third person possesses a vedî'a belonging to him, though it is the case, both the person who has received the hawâla and the one who has given it will have the right to demand their due from him.

2– A hawâla given on the understanding that the payment will be made from the money that the person who accepts the hawâla owes to the first person.

3– A hawâla given on the understand that the payment will be made from something that the first person entrusted to the third person for safekeeping or from something the latter has extorted from the former. Bank cheques given to the creditor are of this sort.

If, in the second or third kind of hawâla, it is found out that the person who accepts the hawâla does not possess something owed to the one who has given the hawâla, or if the vedî'a he has been keeping has perished, the hawâla becomes bâtil (null and void). In case the hawâla has been sahîh, the person who has accepted the hawâla will have to pay the debt only to the second person, who has received the hawâla; otherwise, i.e. if he pays the debt to the one who has given the hawâla, he will have to compensate the person who has received the hawâla, (i.e. the second person,) for it. After the compensation, he will (have the right to) demand it from the person, (the first person,) who has given the hawâla. Once the hawâla has been accepted (by the third person), the person, (the first person,) who has given the hawâla, will no longer (have the right to) demand his due from the person who has accepted the hawâla. Nor will it be permissible for him to donate it as a present to him.

A hawâla may be arranged by way of an agreement between only two of the people involved, i.e. the giver and the recipient, or the giver and the acceptor, as well as among all three of them, i.e.

the giver, the receiver, and the acceptor. Only, an agreement between the giver and the acceptor is contingent on a permission given at the scene of agreement by the receiver or by his deputy, while an agreement made between two of them in the absence of the giver or the acceptor of the hawâla will be sahîh (valid), depending on their individual consent to give or to accept the hawâla, respectively. Unless the giver of the hawâla consents to it, the acceptor of the hawâla cannot ask the giver of the hawâla to compensate for the payment he has made on his own, if he has done so. Nor can he deduct it from his debt to the giver of the hawâla. A hawâla that these three people are made to arrange by force will not be sahîh. If a person says to his debtor, "Pay the debt that you owe me to so and so," it will not be a hawâla arranged. He will have apointed so and so his deputy to collect his due (from the debtor).

The person who gives the hawâla, (i.e. the first person,) and the person who receives it, (i.e. the second person,) have to be discreet, whereas the person who accepts it, (i.e. the third person,) not only has to be discreet, but also has to have reached the age of puberty. (Ages of discretion and puberty are explained in the fifty-first paragraph of the twenty-ninth chapter dealing with Bey' and Shirâ.) Moreover, when an agreement is made and a hawâla is arranged between children (at least) at that age, the walîs (guardians, protectors) of the two children, i.e. that of the child who gives the hawâla as well as that of the child who receives it, will have to give their consent, afterwards, so that the debt may be paid as a requirement of the hawâla arranged.

Since debts of themen resulting from mal-practices such as bribery, gambling, sales of free human beings or leshes or blood are not among debts that are sahîh (valid), their hawâla is not sahîh. Nor is a hawâla arranged for the themen of a sale that is bâtil. (As is explained in the fourth chapter of the current fascicle, an animal that is killed in a manner counter to or incompatible with Islam's prescription concerning the practice is called a 'lesh'. It is harâm to eat or sell it.)

Debts from which there is no release with the exception of discharge or forgiveness [afw], are termed **deyn-i-sahîh**, i.e. debt that is sahîh. The debt of zakât is not a deyn-i-sahîh. For, when the debtor (in this sense) dies or his property gets out of his possession he will be absolved from having to pay zakât. Such debts, i.e. those which are not sahîh, cannot be transferred by way of hawâla. Since items of property that have been given away as a security or for a

temporary use ('âriyat) or for safekeeping (amânat) or for sleeping (or silent) partnership (mudâraba) or for any business partnership or as a rental are not debts that are sahîh, a hawâla of those debts is not arrangeable. For, those things are not deyn; they are 'ayn. Property that is an 'ayn is neither a deyn that is sahîh; nor is it something susceptible of hawâla. A right cannot be transferred by way of hawâla, either. For instance, it will not be sahîh for an army commmander to transfer a ghâzî (fighter for Islam) who has a due from the ghanîma to someone else, or for the Ministry of Finance to transfer the salary to be given to a civil servant or retired official to a bank. For, the ghanîma and a salary are a right each. Before they are obtained they are not personal property; so the Ministry of Finance and the army commander do not owe them to those people. In the so-called transactions the other person and the bank have been appointed by the commander and the Ministry of Finance, respectively, deputies to deliver the rights achieved. However, it is permissible for the ghâzî or the retired official to transfer a creditor of his to the commander or the Ministry of Finance, respectively. For, what is transferred here is not a right, but a debt to someone. The themen of property sold, i.e. its price, money to be paid as a rental, and a [mithlî] article lent, are deyns that are sahîh; therefore they are transferrable.

It is essential that the kind and amount of the debt be known. For instance, a hawâla (transfer) made by saying, "I have accepted the hawâla of your due from so and so," will not be sahîh.

A person who has accepted a hawâla may transfer this debt, which has become his debt now, to a fourth person, who may be anyone, including the original debtor. That means to say that debts undertaken by way of hawâla or kafâlat can be further transferred. However, these debts can be transferred only by the person who has accepted the hawâla or the kafâlat. [A person cannot transfer his creditor by way of hawâla to his debtor. In other words, a permissible chain of hawâlas has to terminate with the same one creditor. What is substituted in this chain is the person to pay the debt to that creditor.

A policy of transaction being widely practised nowadays is as follows: When a person becomes a creditor as the result of a sale, a rental, or lending, his debtor prepares a promissory note such as a bond and hands it to the creditor. When the creditor gives that bond to a third person, to whom he is indebted, he will have transferred his debt to that person to the person who has prepared the bond. This hawâla is fâsid. And when that third person, i.e. the

person given the bond, gives the bond to a creditor of his, that creditor has now been transferred to the person who has prepared the bond. This second hawâla is not permissible, either. For, as the bond travels from one hand to another, the creditors substitute for one another, the original debtor retaining his position. Since it is essential in a chain of hawâlas that the creditor remain the same and the debtors shift, a chain of hawâlas whereby a tradesman's bond is transferred from one hand to another must not be sahîh.]

Once a hawâla has been made, the person who has given the hawâla, as well as his kefîl (surety), will be absolved from the debt (that has been transferred). The person who has received the hawâla cannot demand his due from him. In fact, nor can he demand it from the inheritors of the person who has given the hawâla in case of the death of that person. He has to demand it from the person who has accepted the hawâla.

It may be stipulated that the person who has received the hawâla should be accredited to demand his due from the giver of the hawâla as well. In that case, the person who has accepted the hawâla has been appointed surety. For, a creditor may demand his due from the person standing surety as well as from the debtor. Both the people who have accepted the deal will pay the debt on a fifty-fifty basis.

A hawâla will become null and void for (either one of) the following two reasons:

1– By reason of **tewâ**, which means **telef**, [i.e. perishing, annihilation,] of the debt owed by the person who has accepted the hawâla. And this can be of two sorts: The person who has accepted the hawâla has gone back on his word. He denies it and swears an oath. The person who has given the hawâla and the one who has received it cannot prove that a hawâla has been the case. This tewâ, however, will fall if one of these two people proves the truth by producing evidence or witnesses. Another reason for tewâ is death in a state of insolvencey of the person who has accepted the hawâla.

2– A hawâla becomes null and void by revocation. A hawâla can be revoked when the giver and the receiver of the hawâla agree to do so. Also, when the person who has given the hawâla gives it, again, to someone else, the former hawâla becomes null and void.

The receiver and the acceptor of a hawâla may be **mukhayyer**. (Please review the thirtieth chapter!) In case both of them have

given their consent on this condition beforehand, either one of them may revoke the hawâla unilaterally.

Supposing the seller gave a creditor of his a hawâla transferring him upon the buyer so that the creditor may collect the debt he owes to the creditor from the buyer on the understanding that the payment will be made from the themen (price) of a mebî' that the seller had sold to the buyer, and yet the themen is no longer due to the seller because the mebî' (the commodity sold) has perished before delivery or because the mebî' has been returned to the seller on account of an option (being mukhayyer) or because the sale has been recalled; in none of these cases will the hawâla be bâtil (null and void). For, the buyer was indebted as the agreement of hawâla was being made. The buyer will get the payment he made from the seller. On the other hand, if the buyer had transferred the seller upon his own debtor and the (buyer's) debtor had accepted that hawâla, the judge would annul the hawâla upon the return of the mebî' to the seller.

If urgency has not been stipulated as a condition in a hawâla agreed upon, the debt (transferred) is paid on the former understanding. However, a debt transferred by way of a hawâla containing a phrase of 'urgency' or 'date' stipulated as a condition, will have to be paid accordingly.

A debt to be paid on a certain date may be transferred on the understanding that it will be paid on the date agreed upon or later or earlier. A debt to be paid urgently may be transferred on the undertanding that it will be paid a certain time later. For instance, a person may transfer a person from whom he has borrowed money upon another person on the understanding that the debt will be paid a year later.

A person who has accepted a hawâla cannot demand his money from the giver of the hawâla before paying the debt transferred upon him. He will demand it after performing the payment. According to information provided immediately before the section dealing with (lending termed) qardh-i-hasan in the book entitled **Durr-ul-mukhtâr**, when a loan lent is transferred by the debtor upon someone else, it is permissible to pay it on a certain date determined by the creditor; in fact, when it is transferred upon someone who owes to the debtor a debt that is due on a certain date, it is permissible to pay the transferred debt on that certain date. This kind of hawâla is a (permissible) method to have recourse to for compassing the indispensable end of putting a date

of payment on a promissory note given for a loan. If the agreement of hawâla was made in the presence of the giver of the hawâla, and if the person who accepted the hawâla has paid something else or the person who received the hawâla has donated it as a present or as alms to him, he demands the property for which the hawâla was made or its value from the giver of the hawâla, or gets it offset against his debt to the giver of the hawâla.

If the person who accepted a hawâla and the one who received it agree between themselves and thereby a payment more or less than the amount of debt transferred is made, he, (i.e. the person who has accepted the hawâla and made the payment,) may demand the (exact) amount he has paid from the giver of the hawâla. He cannot demand the amount transferred. If the recipient of the hawâla declares the acceptor free from obligation, i.e. if he makes it halâl for him (by waiving his right), the acceptor of the hawâla cannot demand anything from the giver of the hawâla. However, if the recipient of the hawâla donates it as a present to the acceptor, the acceptor may demand the transferred thing from the giver of the hawâla. If he waives his right by saying that it is halâl, he cannot demand anything from the giver of the hawâla.

[Hence, it is not permissible for banks and tradesmen to buy negotiable paper at a discount. They pay the bearer of a bond less than the amount written on it, and charge the person who wrote the bond the exact amount, instead of charging the lesser amount that they have paid. The information provided above shows that this practice is not permissible.]

A letter written by the creditor to the debtor and ordering the latter to pay his debt to him or to a designated person at a specified time, is termed a ‘bill of exchange’.

A sale that is performed by stipulating that the seller will transfer a creditor of his upon the buyer on the understanding that the payment (of his debt) will be made from the themen (of the sale), is fâsid. The transfer (hawâla) thereby made is batil (null and void). A sale made conditional on that the buyer will transfer the seller upon a third person for the themen, is sahîh. Please review Sales That Are Fâsid in the thirty-first chapter! It is essential that the buyer give the seller the bond that was prepared only by his debtor, and that bond should not have been retransferred by way of hawâla by the former receivers of hawâla. As has previously been explained in the text, bonds travelling from one hand to

another are not sahîh (valid) forms of hawâla; like fulûs, they are being used as themen.

It is stated in the sixteen hundred and fortieth [1640] article of **Majalla**: "A debtor's debtor cannot be held responsible (for the former's debt) to the former's creditor." For instance, a person cannot demand a debt that a dead person owed him from a person who was in debt to that dead person. It is stated in its sixteen hundred and forty-first [1641] article: "A customer's customer cannot be held responsible towards the seller." For instance, if a person sells something he has bought to someone else without paying its price to the person who has sold it to him, that first seller will not be accredited to say to the second buyer, "The person who sold you that commodity had bought it from me, and he had not paid me for it. Either return the commodity to me, or pay for it."

It is makrûh tahrîmî to arrange a hawâla in a manner termed **suftaja**, which means to lend money to a person setting out for a journey on the understanding that he will pay the debt to a designated person upon arriving in his destination. It is a modus operandi had recourse to by some creditors to insure their property against a possible hazard en route. For, (in that mode of lending) the debtor will have to pay the debt upon arrival anyway, regardless of the risks (throughout the journey), and even if the loan perishes on the way. In this kind of hawâla the lender writes a letter of exchange and thereby transfers a friend of his living in that place upon the journeying borrower. Without the stipulation termed suftaja, it is permissible to lend to a person taking a journey.

39 – WAKÂLAT (deputy, proxy, power of attorney)

Wakâlat means a person's putting someone else in his place to do something, [or transferring some work upon someone else.] The person whom that first person puts in his place is called a **wakîl** (deputy, proxy). The person who appoints the wakîl is called the **sâhib** (principal). A person who carries a person's word to another is called a **rasûl** or **messenger**.

Appointing someone as a deputy is done by way of **îjâb** (offer, proposal) and **qabûl** (acceptance). It is done by both sides' uttering or writing the statements "**I have appointed you my wakîl**." and "**I have accepted it**." If the wakîl (deputy) starts doing the job (transferred to him) without answering the offer, he will have accepted it. As well, after the job has been done without informing (the principal), the principal's expressing his consent will effect the kafâlat. A tenant may be appointed deputy to have the house he is occupying repaired by defraying the expense from the rental.

When someone is ordered to do something, he is either appointed wakîl (deputy) or engaged as a messenger. The author of the book entitled **Zahîrat-ul-Burhâniyya** 'rahmatullâhi ta'âlâ 'alaih' states: "If a person gives a hundred liras to another person and says to him, 'I will lend this to so and so. Go to him! Tell him that I have lent it to him! Give it to him and take something as a security,' and if the latter goes to so and so, gives him the hundred liras, returning with a security, he is a **messenger**. The person who has given the instruction can take the security from the messenger. For, the messenger has talked in the name of the person who has given the instruction. He has not talked on his own. The rights arising from the agreement made belong to the person who has given the instruction. The messenger has conveyed his word and taken the security in his name. If the security perishes in the hands of the messenger, it is as though it has perished in the hands of the person who gave the instruction. If the first person had said to the second person that he had appointed him his deputy and the second person had said that he had accepted it, the first person would not be accredited to take the security from his wakîl (deputy). For, the wakîl would have demanded the security for himself. The rights obtained from the agreement he had made would belong to him, (i.e. to the wakîl.) One of his rights would be to keep the security. The person who had given the security would have been given it for the wakîl. If the security had perished in the hands of the wakîl, in that case also the person who had given the

instruction would have to pay for it. For, when the security had perished, it would be as if he had taken possession of the deyn (loan) and returned the security. If he had taken possession of the deyn and thereafter the deyn had perished in his hands, the person who had given the order would not have to pay for it.” If a person’s servant buys goods with his master’s order, the servant has been his master’s wakîl. If that person sends his servant to get the goods for which he already made a bargain, the servant has been his master’s rasûl (messenger).

Appointing a wakîl is sometimes conditional. An example of this would be to say, [I have appointed you my wakîl (deputy) to sell that clock of mine for a hundred liras.]

It is mandatory for the person to appoint a wakîl to be capable of doing the job. It is mandatory for the wakîl to be discreet. It is not mandatory for him to have reached the age of puberty.

In transactions such as gift-giving, ’âriyat (lending for temporary use), security, safekeeping, lending, filing a lawsuit, and establishing a company, the wakîl acts by naming his principal. Otherwise, his acts will not be sahîh.

He may as well act in his own name in buying and selling, in renting out, and in coming to a mutual agreement with the plaintiff. In that case, however, he will be responsible for the rights arising from his actions, whereas the things he receives belong to his principal. If he acts by mentioning the name of his principal, he will be like a messenger. Responsibility for a messenger’s dealings lies with his principal. The book **Durer** provides the following information in its sermon on eating and drinking: “One person’s statement will be acceptable in matters pertaining to buying and selling as well as in a deputy appointment. For instance, if a disbeliever or a woman or a fâsiq Muslim or a slave states that he or she has bought a certain piece of meat from a Muslim or from a Jew or from a Christian, it will be halâl to eat the meat, (since, Jews and Christians are People of the Book [Ahl-i-kitâb] and it is halâl to eat meat from an edible animal that a Jew or a Christian has killed by jugulation and by uttering the name of Allâhu ta’âlâ in their own language.) However, it will not be halâl to eat it if one (strongly) supposes him or her to be lying. If a person states that he is the wakîl of so and so, it will be permissible to buy goods that belong to that ‘so and so’ from that person.”

When a person is appointed as a deputy to do buying and selling or to lend money or to return a debt, goods that he takes

possession of will have been entrusted to his care. If they perish without him causing it he will not have to pay for them. Goods in the possession of a messenger also are like goods entrusted to his care. Once a person has sent a messenger, his goods have gone.

If a person appoints two people as his deputies to co-operate in representing him in a certain business transaction, neither of the deputies will have the authority to deal with the business on his own. However, if they have power of attorney as lawyers, or if the two people have been appointed as deputies to return a debt or something that has been entrusted for safekeeping, either one of them will have the authority to act.

A wakîl cannot appoint someone else as his wakîl unless he receives his principal's additional permission to do so, if his principal has not made him a **wakîl 'umûmî** (deputy general) by saying that he may do as he likes. Only, a wakîl who has been appointed wakîl to pay zakât may appoint another person, who may appoint yet another person, to pay zakât (on behalf of the principal) without the principal's permission. The wakîl's wakîl will directly become the principal's wakîl.

If a fee has been stipulated as the wakîl is being appointed, the fee will be paid upon the completion of the job. If a fee has not been stipulated, what is given will be a donation, which the wakîl cannot demand.

When buying and selling is involved, the wakîl must be told the genus, the kind [or the price] of the commodity. If he has been made a wakîl 'umûmî, it will be unnecessary to tell him (these things). It would be sahîh to say, "Buy me a horse." It would not be sahîh to say, "Buy me an animal." When you say, "Buy one as you like, howsoever it is," you will have appointed a 'wakîl 'umûmî'. Kind of the commodity will differ as the material used, [e.g. cotton, wool,] application, workmanship differ. A sheep's wool and hide are of different kinds. If a wakîl buys something of a different kind, he will have to keep it to himself; it will not belong to the principal. If a wakîl told to buy a ram buys an ewe, it will belong to the wakîl. If he is ordered, "Buy things like milk and rice," it will be permissible for him to buy the ones he finds in the market. When appointing someone your wakîl to buy a house, it will suffice to specify its location and price. If the commodity to be bought is something bought by measure, its amount or price is specified. It is unnecessary to specify its qualifications.

It is stated as follows in the book entitled **Durrat-ul-bayda**,

(written by Muhammad Berdûsî-zâde,) which occupies number [572] of the **Es'ad Efendi** section in the library of Süleymâniyye, Istanbul: "If a person invited to dinner is told (by the host) to eat and take away as much as he likes and to give the rest to anyone he chooses, and that all he eats and takes away will be halâl, what he eats will be halâl. What he takes away and gives others, however, will not be halâl. For, when the amount of food is not known, it is permissible to make it halâl to eat. But it is not a sahîh act to appoint someone wakîl to take property whose amount is not known or to donate something that is unknown as a present without setting it apart while it is possible to deliver it separately.

If a wakîl appointed on a condition does not observe the condition stipulated, he will have to keep to himself the goods that he has thereby bought. It will be permissible for him to modify the condition in favour of his principal. If he makes a purchase on the basis of payment on the spot although he has been told to do so on credit, the property he has bought will be his property. If he buys it on credit although he has been told to buy it by paying for it on the spot, then he has bought it for his principal. If he finds a part of the property and buys it, what he has bought will not be the principal's property if it is something that will be harmful to divide, [e.g. textile,] and the principal's property if it will not be harmful to divide it, [e.g. rice, sugar.]

If the value of the goods he is to buy is not known, a minor deceit that he may suffer in the purchase is tolerable. But a minor deceit suffered in the purchase of things with widely known values, such as meat, bread, sugar, will not be forgiven. The principal may refuse to accept the goods that the wakîl has bought for an exorbitant price, (i.e. by way of a deceit termed fâhish.)

A wakîl who has been appointed to sell a certain commodity cannot buy that commodity for himself. His purchase will belong to his principal even if he says that he has bought it for himself. Property that the wakîl buys in the presence of his principal will belong to the wakîl.

A wakîl cannot sell his own property to his principal.

A wakîl cannot ask his principal to pay him on the spot for the property that he has bought on credit. If he has bought it on the basis of ready payment, he may demand for the themen to be paid on the spot, even if his principal gets the themen (that the wakîl is to pay) to be postponed. He may refuse to deliver the property to his principal unless he is given the themen. However, if the

property perishes in the meantime, the wakîl will have to buy other proprety and deliver it to his principal. A wakîl who has been appointed to make a purchase cannot recall the sale.

A wakîl 'umûmî may sell his principal's property for any price he likes. If the price has already been stated, he cannot sell the property for a lower price. If he does, he will have to defray the difference. A wakîl cannot buy his principal's property for himself. Nor can he sell it to his relatives. However, these sales can be done only when the wakîl is 'umûmî or only for a price higher than its value. A wakîl 'umûmî may sell the property on the basis of a payment on the spot as well as on credit. Yet he cannot sell it on credit if he has been told to sell it on the basis of a ready payment or if the principal has said to him, for instance, "Sell that property of mine and pay my debt."

When a wakîl sells something on credit, he may take a security or engage a surety for its themen, in either case of which he will not be responsible for the security that he takes or the surety whom he engages, respectively. If he is told to make the sale by taking a security or engaging a surety, he has to do so.

Before the wakîl gets possession of the themen he cannot be forced to give it (to his principal) out of his own property. The themen may be taken from the buyer by the principal as well. A wakîl without payment does not have to collect the themen from the buyer. Yet (in that case) he will have to appoint his principal his wakîl to collect the themen. Wakîls with payment, such as commission agents and brokers, have to collect the themen. A wakîl who has been appointed to sell something may recall the sale. Yet that recalling will not be binding on the part of his principal. The property (whose sale has been recalled) will belong to the wakîl and he will have to pay the themen to his principal.

If a wakîl appointed for payment of a debt pays it out of his own property, he will (have the right to) demand it from the indebted principal. If the wakîl pays the debt in gold out of his own property despite the principal's instructions that the payment must be made in paper bills, he will be paid in paper bills. If the wakîl sells his property to the (principal's) creditor and thereby pays the (principal's) debt (to the creditor), he will charge the principal an amount equal to the debt.

If the wakîl executes the principal's instruction to give a certain person (property or money) as a loan or as alms or as a present and delivers it to the designated person, he cannot demand it from the

principal. He would be entitled to the claim if the principal had added, “I will pay you afterwards.”

Instructions concerning power of disposal on any property can be given only by the owner of that property. For instance, an instruction to throw someone else’s property into the sea is not executable. Should the wakîl execute it, he will have to pay for it. If the principal says to the wakîl, “Pay my debt (to so-and-so) out of your own property,” the wakîl will not have to pay the debt even if he has accepted to do so. If the wakîl is in debt to the principal or has been keeping some money entrusted to him by the principal, then he will have to execute the instruction [and pay the debt (to the designated person)]. The principal’s instruction, “Sell my property and pay my debt,” is to be obeyed only by a wakîl with payment.

If the principal gives the wakîl some money with the instruction to pay his (the principal’s) debt to a certain person, the wakîl cannot spend that money paying the principal’s debts to other people. If the principal is dead before the wakîl pays the money to the creditor, the money will be returned to the principal’s inheritors. The creditors will demand their dues from the inheritance.

Supposing the principal said to the wakîl, “Give this money to my creditor and get him to write it behind the bond (or promissory note) or ask him to give you another voucher,” and the wakîl paid the money without receiving a voucher, then the wakîl will have to compensate if the creditor denies having been paid.

The money given to the wakîl will have ta’ayyun when it is made ta’yîn of. (‘Having [the attribute of] ta’ayyun’ is explained in the twenty-ninth [29] chapter.) Perishing of that money entails dismissal of the wakîl. If the wakîl spends the money he has been given by his principal for himself and then spends his own money buying the property that his principal has asked him to buy, the purchase will be his own property. (**Durer-ul-hukkâm**).

The book entitled **Durr-us-sukûk**, which was printed in Istanbul in 1288, provides an account of some of the Islamic law court decisions held in Istanbul. It is stated as follows in the fifteenth [15] page of its first volume: “A tradesman hands a white five-kurush coin, which is his zakât, to Mûsâ Efendi, who is to set out for hajj. He appoints him his wakîl and tells him to pay that zakât to Ibrâhîm Efendi being in the city of Medîna-i-munawwara and to tell him that it is his zakât. Mûsâ Efendi accepts to be his

wakîl and takes possession of the five-kurush coin. But, Ibrâhîm Efendi having been dead, Mûsâ Efendi pays the zakât to another poor person being in Medîna. Since the wakîl has not paid the zakât compatibly with the instruction, he will have to return it to its owner when its owner demands it.” If a wakîl appointed to give (his principal’s) alms to a designated poor person gives the alms to another poor person, the owner of the alms cannot demand it from the wakîl.

The plaintiff and the accused may appoint attorneys of law for themselves without each other’s consent. An attorney may talk against their client at the court of law, and yet not at any other place. If he does, he will not be paid heed to and he will lose his power of attorney. An attorney may be appointed with the proviso that they will not talk against their client. In that case, they will lbe dismissed if they do so.

An attorney is not a wakîl to buy goods. And a person who has been appointed as a wakîl to buy goods cannot represent his principal as an attorney at the court of law.

A principal cannot dismiss his wakîl who has been embroiled in others’ rights. He may dismiss him if he has not involved himself with others’ rights. In such a case, the wakîl himself may as well dismiss himself. The transactions executed by the wakîl until he is informed of his dismissal will be permissible (valid). A wakîl who dismisses himself will carry on until he tells his principal (that he has dismissed himself). A creditor cannot dismiss his wakîl without the knowledge of his debtor if the debtor has knowledge of the wakîl, (i.e. that that person is his creditor’s wakîl.)

When a wakîl is through with the transaction (for which he has been appointed wakîl), his power of representation also will be through. It will be through also when his principal is dead, unless the matter (wherein he has been acting as a wakîl) has been entangled with others’ rights. Another reason for which the wakâlat will be through is the wakîl’s death, in which case the wakîl’s inheritors will not (have the right to) take over the wakâlat.

A wakîl ’umûmî, who has been appointed with the power of doing anything (he likes) on behalf of the principal, has the right to do so, with a few exceptions, such as talâq (divorce, dissolution of a marriage), nikâh (marriage contract, which is dealt with in the twelfth chapter) donation (and giving presents), alms, and (matters of) waqf.

It is bâtil (null and void) to appoint a wakîl to ask for a loan from someone else. Its sahîh (valid) way would be to send someone as a messenger. It is permissible to appoint a wakîl to collect the property that has already been asked for.

It is stated as follows in **Fatâwâ-i-Khayriyya**: "It is permissible for a person to appoint his brother or another man who is nâmahram (to his wife) to go and bring back his wife who has been visiting her father [or another mahram relative] living at a distance of safar from his place.[1] These people, (i.e. her father and other mahram relative,) cannot prevent the wife from leaving with the wakîl appointed (by her husband). They will be sinful if they do so." It is stated as follows in its forty-third page: "Supposing at a time of scarcity a woman gives a bracelet of hers to her husband and says to him, 'Sell this and spend its price buying us our needs! Later you will give me a bracelet of the same value.' Later, however, they disagree on the value of the bracelet. What the husband says by swearing an oath is to be believed. For, he has acted as his wife's wakîl to sell her bracelet. It is not sahîh for her to claim a likeness of the bracelet back from her husband, whom she appointed as a wakîl to sell her bracelet. It would have been a loan if she had not told him to 'sell it.' In that latter case it would be fâsid for her to demand something equal in value."

It is stated in **Fatâwâ-i-Hindiyya**: "It is not essential that the wakîl accept to be wakîl. His not refusing it will be taken as an acceptance. It is permissible for a murtadd (renegade, apostate) living in the Dâr-ul-harb to appoint a wakîl to sell his property that is in the Dâr-ul-islâm. For, once a murtadd has moved to the Dâr-ul-harb, [i.e. to a Christian country such as Italy and France,] his property no longer belongs to him. It is bâtil (null and void) for a Muslim living in the Dâr-ul-islâm to appoint a disbeliever living in the Dâr-ul-harb as his wakîl. Also, it is bâtil for a disbeliever living in the Dâr-ul-harb to appoint a Muslim living in the Dâr-ul-islâm as his wakîl. It will be permissible if a disbeliever living in the Dâr-ul-harb appoints, in the presence of two Muslim witnesses, a Muslim or a dhimmî or a harbî living in the Dâr-ul-harb to collect a debt owed to him in the Dâr-ul-islâm. This agreement would be permissible also if it were made on buying and selling. It is permissible for a Muslim or a dhimmî to appoint a harbî living in

[1] Please see the eighth and the fifteenth chapters of the fourth fascicle of **Endless Bliss** for terms like 'mahram', 'nâmahram', and 'safar'.

the Dâr-ul-islâm as their wakîl. His wakâlat will fall when that harbî goes to the Dâr-ul-harb. The same rule applies in their appointing a murtadd. It is permissible to appoint a wakîl in transactions such as buying and selling, renting out, nikâh, talâq (divorce, dissolution of marriage), khul', making an agreement, bargaining, payment of a debt, and matters of security. It is not permissible in activities that are mubâh (free and permitted) for all people, such as cutting trees for firewood, cutting the grass (within public areas), mining, and drilling for oil. In other words, what is obtained through these activities will belong to the wakîl. A person who acts as a wakîl to give a present or something as a vedî'a, an 'âriyat, a loan or a security does not have the right to claim them back. A wakîl mutlaq, i.e. one who has been told to do whatever he likes, may appoint another wakîl to substitute him. The new wakîl will (directly) become the wakîl of the principal. The second wakîl cannot appoint a third wakîl. [Ibni 'Âbidîn states: "A wakîl may appoint another wakîl (for his place) with the permission of his principal. Supposing a wakîl appointed to buy an animal for qurbân appointed another wakîl, who appointed yet another wakîl, and that last wakîl bought the animal; that purchase will be permissible (acceptable) if the principal gives permission. A wakîl appointed (by his principal) to pay (the principal's) zakât may appoint another wakîl, and that second wakîl also may appoint a third wakîl, independently of the principal's permission. Accordingly, it will be permissible for the last wakîl to pay (the principal's) zakât."] It is permissible to limit the wakîl in respect of time and place. If the buyer says that he is in the dealing in a capacity as a messenger whereas the seller demands the themen by saying, 'You are (acting as) a wakîl,' the buyer's word is to be taken to be true. The seller will have to prove that he (the seller) is telling the truth. A wakîl who has been appointed to sell something cannot buy it for himself. For, a person cannot be both the seller and the buyer (in the same one sale). In a sale by selem, the seller cannot appoint a wakîl. A sale of sarf cannot be performed through a messenger, yet it is practicable through a wakîl. If a wakîl who has been appointed to buy something with a specified bill, say a thousand-lira bill, buys that thing by spending his other thousand-lira bill that he takes before taking possession of the specified thousand-lira bill, the purchase he has made will be permissible (acceptable). It will not be permissible, however, for him to buy that thing by spending his other thousand-lira bill after

having taken possession of the specified thousand-lira bill. Supposing two different people gave money to the same one person, each of them appointing him his wakîl to buy something (for him); he will no longer be either person's wakîl if he mixes the money given by one of the two people with the money given by the other person. [His purchases will become his own property, and he will have to return their money.] Where a present or alms is concerned, both the giver and the recipient may appoint a wakîl each. When two dhimmîs exchange wine or pork as presents between each other, it is permissible for Muslims to act as wakîls. It is sahîh to appoint a poor Muslim your wakîl by saying, for instance, 'Give ten of the gold coins you owe me as alms (to a poor Muslim),' or, 'Spend it performing a kaffârat for an oath for me,' or, 'Pay zakât for me.' (Please review chapter 6 for 'kaffârat'.) If a rich person says to a poor one, 'So and so owes me fifty dirhams. Take it from him as my zakât (to you),' and if the poor person takes gold of that value (from so and so), it will not be a permissible way of paying zakât. If the rich person said, 'I have donated my due from so and so as a present to you. Take it from him,' it would be permissible for the latter to take gold instead of silver. When the debtor's wakîl pays the (debtor's) debt, he will demand it from the debtor. A wakîl who has been appointed to pay kaffârat for an oath or to pay zakât should have been promised during the instruction that he would be paid afterwards, so that he may charge the giver of the instruction after making the payment. If a person says to his wakîl, 'Give so and so ten gold coins on my behalf,' or says, "Pay my debt to him," instead of using the phrase 'on my behalf', he will have to pay it to his wakîl afterwards. If he says, 'Give them as the zakât of my property (or as alms or as a present to so and so),' and does not say that he will pay him afterwards, the wakîl cannot charge the principal after making the payment. The wakîl will not be responsible if he has made the payment without the presence of Beyyina, [i.e. two witnesses,] or if he has not received a written paper showing that he has made the payment. He will be responsible if these conditions have been stipulated during the instruction. If, after the debtor has said to his wakîl, 'Pay my debt to so and so,' the creditor becomes a murtadd, (i.e. abandons his Islamic belief,) and then dies, the wakîl will return the debtor's money. For, it is not permissible for him to give it to a murtadd. If a person gives ten gold coins to his wakîl and says, 'Pay my debt (to so and so),' it will be permissible if the wakîl

pays the debt out of his own money instead of giving those gold coins or sells the creditor goods that are worth ten gold coins or [settles his accounts with him] (by way of a verbal deal whereby he) exchanges the ten golds in his possession with the ten golds that his principal's creditor happens to owe him. In other words, the debtor's debt will have been paid. Supposing a harbî non-muslim living in the Dâr-ul-harb has a wakîl; in case of either one's death the wakâlat will be bâtil (null and void). If a wakîl spends for his own needs the money he has been given for performance of alms, it will not be permissible for him to give the alms out of his own property, even if the amount is equal (to that of the money he has spent for his own needs). He will (have to) return the money he has spent. It would be permissible to give the alms out of his own property if the money he had been given (for performance of alms) were still in his possession. If a person says to his wakîl, 'Give my (amount of) wheat being in your possession as alms to so and so,' and if, thereupon, 'so and so' says to the wakîl, 'Sell the wheat out and give me the money you will earn,' the wakîl cannot sell the wheat without the principal's permission. For, alms to be given will not be (the poor person's) property unless it is taken possession of. However, it would be permissible if the principal had said, for instance, 'Collect the money that so and so owes me and give it away as alms,' it would be permissible for the wakîl to first give the alms out of his own property and then collect the debt from the debtor." It is stated in the book **Fatâwâ-i-Qâdî-Khân**: "If a person says to another, 'You are my wakîl in everything,' the latter will be the former's wakîl only in protecting his property. If he had said, 'You are my wakîl in everything; your instructions are permissible,' he would have appointed him his wakîl in buying and selling, in donating, in giving presents or alms, and in all other interactions involving giving and taking."

Ibni 'Âbidîn provides the following information in his explanations about **hiba** (donation, gift-giving): "Hiba, or teberrû' and gift-giving, means to give one's 'ayn property to the rich without expecting anything in return. An advantage is not given as a present. It is given in a manner termed 'i'âra'. A deyn, i.e. a due, can be given as a present only to the debtor, or to a third person only on the condition that the creditor will instruct that person to collect his due from the debtor. The property to be given should not be occupied (meshghûl) by one's property or by other hissa-i-shâyi'a, so that it may be separately taken possession of. Please

review the fourth chapter dealing with Qurbân! The interaction of hiba is accomplished when the donator utters one of the customary expressions such as, ‘I have given it as a present,’ or ‘I have donated it,’ and the recipient says, ‘I have accepted it,’ or simply takes posssession of the property donated. Once the recipient has taken possession of it, it is his own property. If a person gives someone a dish, an animal, or a house as a gift and delivers the gift (into the latter’s possession), it will not be permissible for him, (i.e. the donator,) to retain the food in it, its saddle, or the household goods in it, respectively. If the case were the other way round, it would be permissible. For, the food and the saddle and the household goods are not occupied (meshghûl) by the gift-maker’s property; on the contrary, they occupy (shâghil) it. In short, something that is meshghûl (occupied) cannnot be given as a gift, whereas something that is shâghil, (i.e. something that occupies the property that the gift-maker retains for himself,) can be given as a present. Only, crops or trees in a field cannot be donated, although they are shâghil, (i.e. although they occupy the property, the field, of the person to make the present.) So is the case with taking possession of alms or a donation. It is permissible for two people to give a house that is their common property as a gift to one person. It is not permissible, however, for a person to give his house as a gift to two people. For, it is not permissible to give something divisible so as to precipitate a (co-ownership termed) hissa-i-shâyi’a. It is permissible to give ten liras as alms or as a gift to two people. For, a gift given to a poor person falls into the category of alms. That is, the rules to be observed (in this instance) must be those of almsgiving. It is permissible to give alms so as to cause a co-ownership, and alms cannot be taken back. It is not permissible to give ten liras as alms or as a gift to two rich people. For, something given in the name of alms to rich people will be a present; so, rules of gift-making will have to be observed. To prevent a co-ownership, the ten liras must be divided by two, and each person must be given five liras. If something indefinite is demanded in return as a gift is being given, it will be a bâtil (null and void) condition. If something specified is demanded, both parties will have to take possession of the proceeds at the same time. Before the event of taking possession takes place, the rules of a donation, whereas in the aftermath the rules of a sale, apply. Therefore, after taking possession (on the part of both parties) has taken place, a unilateral repossession is out of the question. Either

party may desist if one of the parties has not taken possession of their proceed."

According to a piece of information provided in the book entitled **Ihtiyâr**, (by Abdullah Mûsul,) the sort of donation termed **'umrî** (lifelong) is permissible. That is, when a person donates his house to another person by saying, "My house is yours as long as you live," the house will be returned to its owner when the latter dies; if its owner is dead, the house will be given to the owner's inheritors. As for a donation termed **ruqbî**; it is bâtil (null and void) according to the Tarafeyn, (i.e. Imâm a'zam Abû Hanîfa, the leader of the Hanafî Madhhab, and his disciple Imâm Muhammad.) That is, it is bâtil to donate one's house as freehold property to someone else by an exchange of words such as, "Let your house be mine if you die," and "Let my house be yours if I die." It has been called ruqbî because each party expects (teraqqub) the other party's death. It is not sahîh to make acquisition of property dependent on harm or peril. Clothes sent to a person are a gift. Once that person takes possession of them, they will be his own property. He may give them to someone else. When a person is invited to dinner, the food offered to him will not be a gift. He will have been allowed to eat the food, which is termed 'ibâha (rendering lawful)'. Only what he eats will be his property. He cannot give the remainder to someone else, unless he is given permission to do so by the host.

The following passage has been borrowed from the book entitled **Fatâwâ-i-Bezzzâziyya**: "If a person says to another person, 'I have given this as a present to you,' it will be sahîh if the latter simply takes possession of it in the presence of the former without saying that he has accepted it, or if he merely says that he has accepted it without taking possession of the gift. It would also be permissible if the former said, 'Collect my due from so and so and keep it as a present from me.' It would not be permissible if he said, '... and keep it as my zakât to you.' For, zakât must be paid out of property that is an 'ayn. [For that matter, it is not permissible to pay paper bills in the name of zakât. For, paper bills are not property that is an 'ayn. They are bills that can be exchanged for property of equivalent value. The zakât of paper money is paid in gold.] If a person says to his wife, 'Unless you donate me your mahr that I owe you, you can never go and visit your father (in his home),' and thereupon the wife donates her mahr as a gift to her husband, it will not be sahîh. For, a gift given

reluctantly is not sahîh. It is not sahîh (for a woman) to donate her mahr to her husband as a gift dependent on a condition by saying, for instance, ‘Let my mahr be halâl to you if you do so and so.’ It is stated as follows in **Fatâwâ-i-Fayziyya**: “A hiba (donation) made dependent on a condition by saying, ‘... if...,’ is bâtil (null and void). A hiba made dependent on a condition by saying, ‘... on the understanding that ...,’ is sahîh; it is sahîh if the condition is mulâyim (mild, recuperative), and bâtil if the condition is mukhâlif (contrary, negative). If the donor stipulates that something should be done (by the other person), it will not be a hiba (donation). It will be a reward.’ A gift given to a small child will be taken possession of by its father. In the absence of its father the gift will be taken by the father’s executor, in whose absence the present will be accepted by the child’s (paternal) grandfather. If the child does not have a grandfather, either, the gift will be accepted by the person who was willed by its grandfather. If one of these four people exists, the gift cannot be accepted by any of its relatives, even if they have been looking after the child. If none of these four people exists, the gift will be accepted by the person who is taking care of the child in his own home. A discreet child may as well accept the gift on its own. If a person’s sons and daughters are sâlih (and sâliha) Muslims, it is preferable to give them presents in equal amounts. It is permissible for a person not in his death-bed to bequeath all his property to his son; yet it is a sinful act. The property bequeathed will be the child’s property; but the father will have committed a sin. [**Hindiyya**]. It is permissible to give more to grown-up children who are sâlih and who are learning knowledge. If they are equal in salâh, (i.e. in being sâlih Muslims,) they must be given equal amounts. If a person’s children are fâsiq, he had better not leave any inheritance to them, and bequeath his property to sâlih Muslims and charitable institutions. By doing so, he will have avoided supporting wrongdoing. [Please see the thirty-second chapter!] A fâsiq child should not be supported with more than its subsistence. It is permissible for parents to avail themselves of the food sent as a gift to their child. Thawâb for the acts of charity done by the child is its own earning. Its parents’ share from them is the thawâb they earn for teaching their child and making it do them. Whereas a sale will be accomplished when the property sold is delivered, a donation requires also the gift’s having been taken possession of.”

O my delicate child, I will never forget thee,
Be it days, months, nay, years that go by!
Speration from thee has scourged and ruined me;
Can a heart that sweet speech just let pass by?

That tender skin of yours, too cherished to kiss,
How's that elegant figure, I so sadly miss!
As I so dolefully recall those rose-bud lips,
Let roses burn to ashes with my elegy!

Has that exquisite body succumbed to changes?
Have those black eye-brows fallen on thine visages?
Is your golden hair like tousled images?
Have they withered, all those ringlets of beauty?

Has your pure soul flown to its Heaven already?
Have your pink cheeks, graceful face withered already?
Have those cotton hands that I used to kiss and smell,
Rotten and crumbled into soil already?

40 – ’ADÂLAT (Justice) and IHTIKÂR (Profiteering) in TRADE

The following pages have been translated from the book entitled Kimyâ-i-se’âdet:[1]

In this book of ours, we have written a selection of frequently encountered situations and events. A person who is deprived of this little amount of information will most probably fall unawares into a way of living begrimed with harâms and practices of fâiz (interest). Such people do not even know how to inquire about this subject. There are many people who harm other Muslims although they carry on their buying and selling interactions compatibly with Islamic rules. With these practices of theirs, they incur torrents of damnation. There are two situations in which a person’s buying and selling will harm other Muslims: One of them involves a harm from which all people will suffer. And this in its turn is of two sorts: One of them is ihtikâr, [and the other one is to put counterfeit money into circulation.] A person who practises ihtikâr is accursed.

Ihtikâr (profiteering) means collecting victuals for men and animals from markets, hoarding them, and selling them when prices soar. Our blessed Prophet ‘sall-Allâhu ’alaihi wa sallam’ stated: “**If a person buys victuals and keeps them for forty days so that he may sell them at higher prices, he will not be able to compensate for the sin he has incurred even if he dispenses all of them to poor people free of charge**.” Again, he stated: “**If a person preserves victuals for forty days, Allâhu ta’âlâ will be cross with him. For, he has not respected Allâhu ta’âlâ**.” Another hadîth-i-sherîf reads as follows: “**If a person buys victuals from the outside, brings them into town, and sells them at market prices, he will earn as much thawâb as if he gave alms, or he will earn the same thawâb as if he manumitted a slave**.” Imâm ’Alî ‘radiy-Allâhu ’anh’ stated:

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[1] That valuable book was written by Imâm Muhammad Ghazâlî ‘rahmatullâhi ta’âlâ ’alaih’, (450 [1058 A.D.], Ghazâl, Tus (Mashhad), Iran – 505 [1111], the same place,) one of the greatest Islamic savants. Contrary to some groundless suppositions, Imâm Muhammad Ghazâlî was not a philosopher. He was a profound Islamic scholar who had never smeared himself with the heresies of philosophy. His books teem with repudiations of fallacies of philosophers. Please see the fourth and the thirty-sixth chapters of the second fascicle, the fifty-third chapter of the third fascicle of **Endless Bliss** for statements made by Islamic scholars on philosophy and philosophers.

“If a person preserves victuals for forty days, his heart will become dark.” When he was informed about a profiteer, he ordered and had the things that he had hoarded burned. There was an Islamic scholar who was also a tradesman at the same time. He sent his deputy with victuals from his hometown, Vâsit, to Basra, instructing him to sell them there. The prices were lower at Basra. So his wakîl kept the victuals for a week and thereafter sold them at higher prices, writing a message with the good news to his principal. The blessed scholar replied as follows: “It would have been more to our liking to earn much thawâb by being content with little profit. You should not have preferred that high profit at the sacrifice of our faith (Islam). You have committed an extremely grave felony. To get yourself forgiven for that, dispense all the profit, and the capital as well, as alms, right away!” Profiteering has been made harâm because it is something harmful to Muslims. For, victuals are vital for human and animal life. When they are sold, it is mubâh for everybody to buy them. When one person buys and stores them, others cannot buy them. It is, in a way, like storing the water coming out of a fountain and leaving other people thirsty. It is sinful to buy victuals with this intention. Imâm a'zam Abû Hanîfa 'rahmatullâhi 'alaih' stated: “A villager may sell the victuals he obtains from his land whenever he likes. It is not wâjib for him to sell them as soon as he reaps them. However, he earns plenty of thawâb if he sells them immediately. It will be a malicious intention if he considers selling them after the prices rise. Ihtikâr is not harâm when medicine or goods other than victuals or things that are needed by everybody are involved. It is gravely harâm with bread and the like, and slightly harâm with things like meat and fat.” According to the Imâmeyn, (i.e. Imâm Abû Yûsuf and Imâm Muhammad,) all these things fall within the category of ihtikâr (profiteering). Ihtikâr with anything that people need is harâm. When government officials are informed about a profiteer, they should order him to retain the amount that will suffice for his household and sell the remainder to the people.

[Imâm a'zam 'rahmatullâhi 'alaih' stated that it would not be ihtikâr to store medicine in order to sell it when the prices go up. The case as this is with most types of medicine, since some special types of medicine, such as quinine used to treat malaria, insulin used for diabetic treatment, and vaccinations and serums applied to prevent certain bacteria and infections, are, like bread used against hunger, of definite preventive and curative effect, ihtikâr [black-marketeering] by storing these strongly effective types of

medicine is harâm.] Ihtikâr with victuals is harâm when they are rare. When there are plenty of them, so that people can easily buy them, ihtikâr will not be harâm. However, it is makrûh even at such times of abundance. For, it is not something good to count on harm to befall other people.

The second sort of harm from which all people will suffer is **counterfeit money put into circulation**. It will be cruelty perpetrated to people who receive such money unknowingly. If the person who receives it realizes that he has been paid false money, he may deceive someone else, who in his turn may deceive a third person, and thereby a chain of cheatings may take place. As the false money travels from one hand to another, all the sin incurred will be recorded in the original cheater's book of accounts. It is for this reason that our superiors have stated, "Paying a false coin is worse than stealing a hundred coins." For, stealth is a sin committed once, whereas the sin for this crime continues to regenerate itself even after the death of the sinner. The most unfortunate person is the one whose sinning does not come to an end although it has been a long time since his death. Years after his death his sin will keep being recorded and he will keep suffering torment. A person who comes across a false bill or coin should destroy it, instead of giving it to someone else. One should know genuine bills and coins well lest one should cheat others, rather than lest one should be cheated. It is also sinful to give and take false money unknowingly. For, "It is wâjib for a Muslim to learn Islam's instructions about every matter he undergoes." It yields thawâb to accept false money with the intention of destroying it. Debased metal coins should not be destroyed; they should be delivered to trustworthy people, i.e. to government officials, and those people should be told about the problem with the currency they are being handed. To give them to deceitful people is harâm, like supplying weapons for highwaymen.

The second harmful situation is one in which the harm is caused to the person dealt with in the interaction. Any dealing wherein harm is involved is a kind of cruelty. And cruelty, in its turn, is harâm. Every Muslim should avoid doing to others something that he would not like to be done to himself, even if they are disbelievers.

Principally, four things should be avoided:

1– Property for sale should not be overpraised. For, that act

contains both falsehood and deceit, cruelty to the bargain. In fact, something known by the buyer should not be mentioned, even if it is true. For, it would mean 'labouring the obvious.' On the Judgment Day every word uttered will have to be accounted for. People who make useless statements will find no excuse. As for selling something by swearing; it is harâm to swear falsely. That is, it is a grave sin. Supposing what you were to swear to were true, then it would be flippancy to exploit the Name of Allâhu ta'âlâ in trivial matters. It is stated as follows in a hadîth-i-sherîf: "**Shame on those people who use expressions (of swearing) such as, 'Wallahi so,' and 'Wallahi not so,' in their buying and selling and on those craftsmen who do not keep their promises and continuously play a waiting game with their clients by putting off their orders with a series of 'on-the-morrow' fibs**." Another hadîth-i-sherîfs reads as follows: "**A person who swears in order to make his commodity** (for sale) **preferrable will not be met with mercy on the Judgment Day**." Yûnus bin 'Abîd 'rahmatullâhi ta'âlâ 'alaih' was a merchant of silk textiles. He would never praise his wares as he sold them. One day he heard his assistant say, "Yâ Rabbî! (O my Rabb [Allah])! Bless me with the lot of (wearing something made of) this textile of Paradise," as he was showing a piece of cloth to a customer. Fearing that the assistant's entreaty pronounced in the presence of the customer might in effect serve as a commendation of the merchandise, he had the textile removed and did not let it be sold.

2– A flaw in merchandise should be shown clearly to the customer, instead of being hidden from the customer's eyes. It is perfidy to hush up a flaw. It means to deprive a Believer from his right to take counsel. It means to be a cruel wrongdoer. It is trickery to show the good parts of merchandise or to show it at a place not properly lit. One day Rasûlullah 'sall-Allâhu 'alaihi wa sallam' inserted his blessed fingers into a heap of wheat being marketed by a person and saw that the inner part was damp. "**What is this**?" questioned the blessed Messenger of Allah. "It must have been rain," was the man's explanation, whereupon the Best of Mankind said, "**Why do you keep it hidden, instead of showing it? A trickster is not one of us**." One day a man sold a camel for three hundred dirhams of silver. One of the camel's feet was not in good shape. **Wâsila bin Esqa'**, one of the Ashâb-i-kirâm ''alaihim-ur-ridwân', was there. That blessed person was preoccupied as the sale of the camel took place. When he became aware of the event he ran after the buyer and let him know of the

camel’s ailing foot. The buyer brought the camel back and took his money back. When the seller asked him why he had ruined his sale,” he quoted the following hadîth-i-sherîf that he had heard from Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’: “**It is not halâl to hide the fault of something being sold. Should anyone know about that fault, it is not halâl for that person, either, not to let** (the buyer) **know about it**.” Wâsila went on: “Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ made us promise that we would give counsel to Muslims and that we would have mercy on them.” To hide the fault of something for sale means not to give counsel. It is very difficult for salesmen not to hide a flaw in a commodity they are selling. It means a great jihâd. In order to attain victory in this jihâd, we should be very careful when buying lest we should buy something defective. In case we should buy something defective, we should intend to let the (successive) buyer know about it. If we are cheated, we will suffer harm. We should not let others pay for this harm. When someone hurts us, we should not react by estranging others from ourselves. We should know very well that cheating others will not increase our sustenance. On the contrary, such an act will remove the barakat of our property. Goods collected piecemeal by trickery are generally devastated by a sudden catastrophe, leaving the collector with a lot of sins to account for. As a matter of fact, there was a man watering down the milk he was selling. One day a sudden flood drowned his cow. Appalled, the man was musing, when his child said, “Daddy, the water we have been adding (to the milk) has accumulated and taken the cow away.” Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ stated: “**Perfidy mixed with trade will remove its barakat**.” ‘Barakat’ means ‘abundance of benefits and uses in property, little as its amount may be’. When a little amount of property has barakat it will cause very good deeds and many people will benefit from it. There is many an example of property whose lack of barakat causes worldly and next-worldly disasters to befall its owner. Then, we should wish our property not to be sizeable in quantity, but to be opulent in barakat. Barakat exists with trustworthy people. In fact, even quantity is possessed by trustworthy tradesmen. No one prefers perfidious tradesmen. A tradesman should think of his worldly lifespan that will last no longer than a hundred years versus an endless life in the Hereafter. Who on earth would have a predilection for a few more gold and silver coins at the sacrifice of an eternal life of felicity? A salesman with these thoughts can never be perfidious. Rasûlullah ‘sall-

Allâhu 'alaihi wa sallam' stated: "**People who say, 'Lâ ilâha il-l-Allah,' will be safe against the Wrath and torment of Allâhu ta'âlâ unless they hold the world higher than their faith** (Islam)**. If they abandon their faith and hold fast to the world; when they utter the Kalima-i-tawhîd Allâhu ta'âlâ will say unto them: 'You are lying**!' "

Not to be deceitful is farz in all branches of business. Poor production, as well as hiding a flaw, is harâm. Imâm Ahmad bin Hanbal 'rahmatullâhi ta'âlâ 'alaih' was asked about sewing hidden patches. He stated: "They are permissible in 'nothing-loath' situations such as when the person who sews the patch is to wear the clothes with the patch himself and when the customer wants (the patch sewn); and sinful in deceitful situations, such as when clothes with hidden patches are sold in the name of new ones. The money received in the latter case is harâm."

[It would not be a sound reasoning to syllogize by pushing the far-fetched premise that 'people are mostly prone to sinning and denial' towards the forced suppositional conclusion that 'trickery and treachery must then be permissible'. Offences such as trickery, treachery, and violation of rights are harâm. And harâms, in their turn, will by no means and for no reason be halâl, unless there is a (strong necessity that Islam prescribes and terms) darûrat, (and which is defined in various occasions throughout our publications, e.g. in the fourth chapter of the fourth fascicle of **Endless Bliss**.) The beautiful moral conduct taught by Islam must be put into practice everywhere. Propagation of Islam by setting an example of beautiful moral quality is in effect a practice of (Islam's commandment termed) Amr-i-ma'rûf. Islam's commandments and prohibitions such as not to infringe on disbelievers' rights, to obey the laws of their governments, and not to cheat anyone are in force even for Muslims living in the Dâr-ul-harb. Lâ-madhhabî people such as Hasan al-Bennâ, Sayyid Qutb, and Mawdûdî misinterpreted the nineteenth âyat-i-kerîma of the Hâjj Sûra and provoked younger generations into a rebellion against their government, stirred up enmity among brothers, and fanned the flames of anarchy. The blessed meaning of the âyat-i-kerîma, however, was: "**Permission has been given for jihâd against those tyrants who have been attacking the Believers**." The Meccan unbelievers were persecuting, wounding, and slaying the Muslims. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' was continuously being implored to grant a permission for counter-action against the cruel oppressors. The requests were being rejected. Those who failed to dodge the persecutions were allowed to migrate to Abyssinia,

another country of disbelievers. When Rasûlullah 'sall-Allâhu 'alaihi wa sallam' migrated to Medîna, this âyat-i-kerîma was revealed and the newly established Islamic State was granted permission to make jihâd against the Meccan oppressors. The permission granted via this âyat-i-kerîma was intended not for the Muslims' insurrection against the cruel government, but for the Islamic states' making jihâd against the curel dictators who had been preventing people from hearing about Islam and becoming Muslims. As is seen, it is never permissible to rise against governments and laws, Islamic, atheistic, just, and unjust ones alike. Muslims should not arouse fitna or mix with people who arouse fitna. If a Muslim living in a communist country becomes fed up with oppression and persecution and it becomes impossibile for him to lead a life compatible with Islam or to practise his acts of worship, he still should not oppose the oppressors; he should migrate to a Muslim country. Should it be impossible to migrate to a Muslim country, he should go to any country whose administrators do not infringe on the people's rights or abuse them on account of their religious beliefs and practices.]

3– Deceit in measurement should be avoided, and weighing must be done correctly. It is purported as follows in the first âyat-i-kerîma of the Mutaffifîn Sûra of the Qur'ân al-kerîm: "**I shall inflict bitter torment on those who exact** (more than) **full measure when they have to receive by measure from men, and who give less than due when they have to give by measure or weight**." Our superiors would always take less than due whenever they had to receive by measure and give more than due whenever they had to give by measure. They would say, "This little difference will be a curtain between us and Hell." They would do so for fear of failing to measure correctly. They would say, "How idiotic it would be to sell Paradise, which is as vast as seven layers of ground and seven layers of heaven, for a few coins, and how idiotic some people must be to prefer a few grains of barley in return for the news of torment in Hell." Whenever Rasûlullah 'sall-Allâhu 'alaihi wa sallam' bought something he would pay a little more than the price demanded. When Fudayl bin Iyâd 'rahmatullâhi ta'âlâ 'alaih' saw his son wiping the dirt off the gold pieces that he was to pay for his purchase, he said, "O my son! What you are doing at the moment is more useful than performing nâfila hajj twice and 'umra twice." Our superiors advise: The worst ones among fâsiq people are those who exact more than the amount measured to be due to them as they buy, and give less than the amount measured as they sell. So

are those cloth-sellers who hold the cloth loose as they buy and taut as they sell. So are those butchers who sell meat with more bone in it than customary. So are those villagers who mix dust and soil into the grain. So are those ourdoor market sellers who mix poor quality wares with good ones and sell them in the name of good quality. All these acts are harâm. In short, probity in trade is wâjib, regardless of who you are dealing with. In fact, one should not talk with others in a manner that one would not like to be talked with. Safety against such harâm acts lies in not looking on oneself as someone superior to one's Muslim brothers. And this is something difficult, so that not everybody can manage it. It is for this reason that Allâhu ta'âlâ declares: "**Each and every one of you will** (have to) **go through Hell**!" What remains to be said is that each and every one of us will weather that fearful passage either in haste or tardily, depending on our fear of Allâhu ta'âlâ.

4– Deception in sale prices should be avoided. Our Prophet 'sall-Allâhu 'alaihi wa sallam' prohibited Muslims to "buy goods cheaply by meeting villagers who bring goods to town and preventing them from learning the market prices." It is permissible for a villager to go back on a sale he has made in that manner. Another injunction delivered by the Best of Mankind is against meeting a villager who has brought something cheap and saying to him, "Leave me this commodity. I will sell it for a high price later." Another prohibition is to buy a commodity for a high price before the onlookers so that its market price will go up. Customers who realize that they have bought something whose price has been falsely enhanced by way of that stratagem may go back on their purchase. It is harâm also to sell overexpensive goods to people who do not know market prices. In fact, novices who sell goods too cheaply or who make overexpensive purchases because they are unaware of market prices should be sidestepped. Sahîh and permissible as it is to go into a buying and selling business with such people, it is sinful to withhold the market prices from such neophytes. There lived a great merchant in Basra. One of his men stationed in the Iranian city of Sus wrote him a letter informing him of the year's poor harvest of sugar canes and that the shortage could be exploited by buying a large amount of sugar before others hear about it. Thereupon the merchant bought plenty of sugar, sold sugar for high prices when sugar disappeared from markets, and made a profit of thirty thousand dirhams of silver. Afterwards he thought: "I have withheld the information of the disaster that struck the crop of sugar canes this year from other Muslims. That

is an act of perfidy. Such behaviour does not befit a Muslim!" He took the thirty dirhams of silver to people from whom he had bought the sugar and told them that the profit was theirs. When they asked why, he told them about his wrong deed. None them would accept the money. "May it all be halâl for you," said each and every one of them. When he was back home in the evening thoughts and scruples would not leave him alone. "Perhaps they felt too ashamed to accept the money. I have committed an act of perfidy against my Muslim brothers," he was saying to himself. The next morning he left with the money again and dispensed the entire thirty-dirham silver to the people who he thought were its real owners, imploring them to accept their shares. The customer should be told the truth and deceit should be strictly shunned. Any fault in the commodity should be made known. If the commodity has been bought from a relative or acquaintance by paying more money than its normal price for the purpose of supporting them, the customer should be informed of this as well as of the normal market value of the commodity. For instance, if the commodity has been bought for, say, ten liras, although it is not worth ten liras, the customer who is to buy it should not be told that it has been bought for ten liras. If a commodity that has been bought for a low price is being sold for a high price because prices have risen, the customer should be told its purchase price. There are myriads of such examples. And there is many an unsuspecting offender guilty of this perfidy. The best way to avoid this perfidy is everyone's avoiding doing something that would harm others as they would not like others to cause them harm. After taking utmost care throughout the bargaining, people are mostly convinced that they have accomplished their purchase by paying the optimal price. Therein lies the perfidy and fraudulence of a cheatful sale.

[It is stated in the twenty-sixth [26] article of the book **Majalla**: "One person may be harmed for the purpose of protecting many people from harm." If sellers of victuals harm the people by selling their goods for prices twice as high as their market prices, judge of the court will get them sold for their market prices. At times of dearth, the government may get the victuals hoarded by **profiteers** sold for convenient prices to people who suffer from hunger.

Hadrat 'Abd-ul-Ghanî Nablusî 'rahmatullâhi ta'âlâ 'alaih', (1050 [1640 A.D.] – 1143 [1731], Damasus,) states as follows in the two hundred and seventh [207] page of his book **Hadîqa**, (which is a commentary to the book **Tarîqat-i-Muhammadiyya**, written by Zayn-ud-dîn Muhammad Birgivî, 928 [1521 A.D.] – 981 [1573],

Birgi:) “A person who searches for **rukhsats** in the (four) Madhhabs, i.e. the easier ways suggested by them, and carry on his deeds and practices in accordance with the easiest prescriptions, is called a **mulaffiq**. This kind of eclecticism is not permissible. It is something to be preferred by someone who is unwilling to adapt himself to the Islamic rules. In case of an indispensable necessity or a darûrat, it is permissible to do something, or everything if necessary, by following the instructions dictated by (one of the three Madhhabs) other than your own. To transfer from one Madhhab to another for the sake of easiness means to follow one’s nafs. It is not permissible.

It is not permissible to have recourse to (a trick termed) **hîla-i-bâtila**, which is a prevarication employed for the purpose of changing something that is harâm into halâl or vice versa or balking someone of his right or getting possession of property not rightfully deserved. The permissibility of **hîla-i-shar’iyya** in the Madhhabs of Hanafî and Shâfi’î has not been intended as a permission to do something that is harâm. When a case is brought to the court, it is permissible for the judge to make a decision that is legal under normal conditions so long as he does not know that a stratagem is involved. He will be sinful if he makes that decision although he is wise to a stratagem involved.” Imâm Abû Hanîfa ‘radiy-Allâhu ’anh’ stated that a mufti who taught people stratagems of that sort was to be forced to leave his place. Yes, Imâm-i-A’zam Abû Hanîfa stated that hîla-i-shar’iyya was permissible. Yet that statement should not be construed as a permission to use means contrary to Islam. It means that decisions based upon the employment of such means will be valid. For instance, a fâsid bey’ is not permissible; it is harâm. Yet once a fâsid bey’ has been made, it is necessary to acquiesce in the situation consequent upon its performance. An example of this is a sale made (immediately) after the performance of the azân (adhân) for Friday prayer. Another example is the harâm version of the sale termed ’iyna, (which has been explained earlier in the text.) It is necessary in the Shâfi’î Madhhab as well to acquiesce in the situation resulting from a tricky sale that is harâm, whereas it is not necessary in the Mâlikî and Hanbalî Madhhabs. Once a person’s property has reached the amount termed nisâb, it is not permissible, even according to the Hanafî Madhhab, for him to transfer ownership of his property to someone else before the end of the period of one year and take it back when that period is over, which is a stratagem that is resorted to for the purpose of

forestalling the zakât's becoming farz. If a person asserts that a certain woman is his wife and produces two false witnesses to prove it, the woman will be his wife even if she denies it. Yet it is harâm to employ false witnesses so that such a decision will perforce be made. So is the case with a formality sale substituted for a lending and intended for the mutation of interest, (which is harâm,) into halâl. It is an act of bid'at. [It has been explained in the thirty-seventh chapter that a person who has to pay interest for the money he is to borrow may detour around the punishment for interest by arranging a formality sale. This fatwâ is intended for people who are unable to earn a living and who cannot find someone to lend them by way of qardh-i-hasan without charging them for interest. In other words, it is intended to protect poor people who are compelled to lend money on interest against the sinful practice of interest. It should not be concluded, however, that anyone may borrow money on interest by arranging a formality sale.] It is the tenor of the act, not the words used to name it, that is binding in agreements of this nature. **Hîla-i-bâtila**, a scenario arranged in order to change an act that is harâm into one that is halâl, is a Jewish custom."

It is stated as follows in the sixth chapter of the book **Fatâwâ-i-Hindiyya**: "It is permissible, and even good, to arrange a hîla-i-shar'iyya in order to be safe against harâm and to be blessed with halâl. The proof-text to show that the hîla-i-shar'iyya is permissible is the forty-fourth âyat-i-kerîma of Sâd Sûra. That âyat-i-kerîma describes the hîla-i-shar'iyya that (the Prophet) Ayyûb (Job) 'alaihis-salâm' was advised to arrange to avoid the fulfilment of an oath that the blessed Prophet had sworn that he would get his wife flogged with one hundred stripes." It is stated as follows in the section where punishments termed 'hadd' are dealt with in the book **Eshi'at-ul-lama'ât**: Sa'îd bin Sa'd relates: One day my father Sa'd took a feeble and palsied person to the Messenger of Allah 'sall-Allâhu ta'âlâ 'alaihi wa sallam' and said that they had caught him committing fornication. Rasûlullah ordered: "**Flog him once with a piece of branch with a hundred young shoots on it**!" Thereby, the punishment of 'hadd', which consists of 'flogging with a hundred stripes', was executed with one stroke. This excerpt translated from the book Eshi'at shows that hîla-i-shar'iyya is permissible; nay, it is necessary.]

41 – IHSÂN (Benevolence, Kindness) in TRADE

The following information is provided in the fourth chapter of the third part of the book entitled **Kimyâ-i-se’âdet**: Allâhu ta’âlâ enjoins not only justice, but also benevolence, on us. We have enlarged on justice in the previous chapter. A person who adheres to the principles we have stated will be safe against being cruel to others. Now we shall elaborate on how to be benevolent: The fifty-fifth âyat-i-kerîma of A’râf Sûra purports: “**Verily My Mercy is very close to those who are benevolent**.” People who act with justice only have guaranteed their capital of faith. Profits, however, are for those who act with benevolence. Will a wise person deprive himself of profits to be reaped in the Hereafter? Benevolence (ihsân) means to do a favour that has not been enjoined on us.

[The author ‘rahmatullâhi ta’âlâ ’alaih’ of the book **Eshbâh** states: The second principle is **îthâr**, which means ‘not to take something that one needs, and to leave it to one’s Muslim brother.’ Îthâr is done in things that one needs, not in qurbats and ’ibâdât (acts of worship). For instance, a person who has water enough to clean himself from najâsat or clothes enough for satr-i-awrat uses them himself, instead of giving them to someone else who needs them.[1] He does not offer his place in the front line (of worshippers ready for a namâz in jamâ’at) to someone else. When a prayer time comes, it is not permissible for a person without an ablution to do îthâr by giving his water for ablution to someone else.

There are six ways of obtaining ihsân in trade:

1– High profits should be avoided, even in cases when customers offer much money on account of their urgent need. Sirrî Seqâtî ‘quddisa sirruh’, (also named Abul Hasan, one of those profound scholars and Awliyâ who were called **Sôfiyya-i-’aliyya**, d. 251 [865 A.D.], Baghdâd,) had a shop. He would refuse a profit of more than five percent. Once he bought almond kernels worth sixty gold coins. Thereafter almond prices suddenly soared. A broker came to him for the sale of the almonds. Hadrat Sirrî told him to sell his almonds for sixty-three gold coins. When the broker said that that amount of almonds would sell for ninety gold coins,

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[1] Please see the sixth and the eighth chapters of the fourth fascicle of **Endless Bliss**, the former for **najâsat**, and the latter for **satr-i-awrat**.

the great Walî replied, “I have decided not to make a profit of more than five percent. I will not change my mind.” “And I cannot sell your goods for a price lower than their market price,” objected the broker, and the owner insisted on refusing the high price. So the almonds remained unsold. Such is the ideal ihsân. Muhammad bin Munkedir ‘rahmatullâhi ta’âlâ ’alaih’, (d. 130 [748 A.D.], Medîna,) was among the highest scholars and Awliyâ, (who are called Sôfiyya-i-’aliyya.) He was a cloth merchant selling various kinds of textile in his store. Prices of the fabrics he carried and sold ranged between five gold coins a zrâ’ and ten gold coins a zrâ’. [A zrâ (or dhrâ’) is 0.48 metres.] One day in his absence his assistant sold a villager a piece of cloth for ten gold coins, while it was worth five. When he was back and his assistant told him about the sale, he sent someone to look for the villager, who was found after a search that lasted till evening. When the blessed Walî saw the villager he said, “The cloth you bought is worth no more than five gold coins.” “I bought it willingly,” replied the villager. Thereupon the great personage said, “If I would not prefer something for my part, I will not prefer it on behalf of my Muslim brother. Either go back on the sale and take your five coins back, or let me give you cloth worth ten coins.” The villager took the five coins back. Later, the customer asked someone who that hero was. When he was replied that that person was Muhammad bin Munkedir, he exclaimed, “Subhân-Allah! He is the kind of person that whenever we suffer from drought in the wilderness we mention his name and invoke Allâhu ta’âlâ for rain, and presently it rains.” Our superiors found it more ‘barakat’ful to accomplish more sales by being contented with lower profits. ’Alî ‘radiy-Allâhu ’anh’, the Khalîfa, would take a stroll in the market place of the city of Kûfa and admonish the salesmen against refusing lower profits. “Otherwise you will be deprived of higher profits,” he would say. ’Abd-ur-Rahmân bin ’Awf ‘radiy-Allâhu ’anh’, (d. 31 A.H.,) one of the greatest Sahâbîs, (and also one of the earliest eight Believers –He was also one of the ten most fortunate Believers who are called ‘**Ashara-i-mubash-shara**’ because they had been blessed with the good news that they would go to Paradise after death,–) was asked how he had made that great wealth, (for he was extremely rich.) “I have always been contented with very little profit. I have never turned down any customer. In fact, one day I sold a thousand camels at a cost price. The only profit I made was the ropes on their knees. Each rope was worth a dirham of silver. That day the camels were fed at my expense. I made a profit of a thousand

dirhams of silver," he said.

[It is stated as follows in the twenty-fifth page of the (Turkish) book entitled **Bey' ve Şirâ Risâlesi Şerhi**, which is a commentary made by Ismâ'il bin Osmân ('Uthmân) to the book entitled **Bey' ve Şirâ Risâlesi** and written by Hamzâ Efendi 'rahmatullâhi ta'âlâ 'alaih': "Seventhly, cheating someone by selling something for an exorbitant price should be avoided. For, if you buy something that is being sold for ten liras in the market by paying eleven liras for it, you have been cheated by a deceit termed ghaben-i-fâhish, i.e. extortionate cheating. A customer who has been cheated extortionately by being lied to may go back on the sale he has made."]

2– Goods offered for sale by poor people should be bought by paying more than they are worth. That will make them happy. For example, much money should be paid for woollen threads spun by widowed women and for fruit sold by children. There is more thawâb in this kind of support given to working people than in giving alms. People who provide support of this sort will attain the blessings which Rasûlullah 'sall-Allâhu 'alaihi wa sallam' invoked on them. For, the Messenger of Allah invoked: "**May Allâhu ta'âlâ show mercy to those who make things easy in their buying and selling**!" However, there is no thawâb in being cheated as the goods are being bought from the rich merchant; nor is it something good. It means a waste of property. On the contrary, it is necessary to bargain and buy cheaply. Imâm Hasan and Huseyn 'radiy-Allâhu 'anhumâ' would bargain and try to buy cheaply whenever they were to make a purchase. When they were asked, "You give thousands of dirhams as alms daily. Why do you exert yourselves bargaining for such a long time?" they would reply, "We give all the alms for the sake of Allâhu ta'âlâ. It would be little no matter how much we give. But being cheated in buying and selling bespeaks deficiency in one's reason and property."

3– Ihsân in receiving money from the customer may be done in three ways: Kindness should be shown by making some reduction in the price. Worn-out, dirty bills and coins should be accepted. Sales on credit should be made for the same prices as would be charged for those made on the on-the-spot payment. [If it is stipulated as a condition to raise the price in case the sale should be made on credit, the bey' (sale) will be fâsid. It will be harâm.] Rasûlullah 'sall-Allâhu 'alaihi wa sallam' stated: "**People who offer easy ways will be shown easy ways in everything they do, by Allâhu ta'âlâ**." The greatest and the most valuable ihsân is to sell on credit to poor

people. It is wâjib, anyway, to prolong the debt of a person who does not have money or property. It is not an act of ihsân; it is justice; it is a duty. However, so long as the seller has property and is not selling something at a loss or something he himself needs, it is an act of ihsân, a great act of alms for him to defer the time of payment for people who will be unable to pay on the spot. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' stated: "**On the Day of Judgment they will call a person to account: He has commmitted a lot of sins and has not performed any good acts. 'Didn't you do any good in the world,' they will ask him. 'No, I didn't,' he will say, and will add, 'Only, I would always advise my assistant: Do not dun the debtors for payment! Tell them to pay whenever they obtain money. And go on giving them what they want. Do not let them go back empty handed!' Thereupon Allâhu ta'âlâ will say unto him: 'O My slave! Today you are poor, needy! As you pitied My slaves in the world, likewise We shall pity you today!' So He will forgive him**." It was stated in another hadîth-i-sherîf: "**A person who lends a Muslim for the grace of Allah will be given thawâb of alms for each day. A person who does not make a hasty demand of the money that a poor person owes him will be given thawâb for alms daily**." Our superiors were so magnanimous that some of them "would rather earn thawâb as if they had donated the amount of property owed to them as alms than have it brought back to them." It was stated in another hadîth-i-sherîf: "**Whereas ten-fold thawâb will be returned for each dirham given as alms, eighteen-fold thawâb will be returned for each dirham lent. For, what is lent has been given to someone who needs it. Alms may have been given to someone who is not in need of it**." [Please review the final part of the thirty-seventh chapter!]

4– Ihsân in returning a debt is accomplished by paying it without waiting for the creditor's demanding his due, by paying the best kind of money, and by visiting the creditor in person and handing him the money. The creditor should not be compelled to send someone. It was stated in a hadîth-i-sherîf: "**The best ones among you are those who pay their debts well**." Another hadîth-i-sherîf reads: "**If a borrower intends to pay back well angels will pray for him so that he will pay his debt**." If a person delays payment of his debt for an hour although he has property (enough to do so), he will be a cruel and mischievous person. He will be under damnation as he performs namâz, as he fasts, as he is asleep, and every moment. So grave a sin is it not to pay one's debt that the sinfulness it incurs will be recorded continuously, even as one is asleep. To have property does not mean to have much money. If

one has property to be sold, one will be sinful for not selling it. If one pays one's debt by giving money with a low value or useless property, one will have committed a sin if the creditor accepts it unwillingly. One will not be absolved from sinfulness unless one somehow pleases the creditor so that the creditor will no longer feel hurt. This is one of the grave sins, although it does not even occur to many a person that it may be a sin.

5– **Iqâla** should be preferred, i.e. the sale should be recalled, if the buyer repents (for having made the purchase. [Iqâla is performed by one of the parties' saying: "I have withdrawn from the agreement," and the other party's replying, "I have accepted your withdrawal," or, "So have I." If an increase or decrease in the themen is stipulated as a condition in the iqâla, the condition will be bâtil (null and void). That is, the condition stipulated will not have to be fulfilled. The themen's having perished is not a hindrance to the iqâla. If the mebî' perishes, however, the iqâla will be cancelled. In sales termed fâsid and makrûh, as well as when demanded by the buyer who has been cheated in a scale termed **ghaben-i-fâhish**, iqâla is wâjib. In a sale termed sahîh, iqâla is mustahab for one party when the other party demands it.] For, Rasûlullah 'sall-Allâhu 'alaihi wa sallam' stated: "**Allâhu ta'âlâ will pardon the sins of a person who cancels the sale** (he has made) **and takes** (the property he has sold) **back** [because the purchaser has repented]." It is not wâjib to recall a sale accomplished. Yet it is an act of ihsân, which in turn brings plenty of thawâb.

6– The poor should be sold goods on credit, and the intention should be 'not to demand a payment from people who do not have money.' In case the debtor is dead, the debt should be made halâl, (i.e. it should be forgiven.) Some of our superiors had two different books kept in their shops. One of the books contained anonymous identities, all of them belonging to poor debtors. Some of the debts recorded did not even indicate any names in the debtors' list. That was intended to guarantee the debtors against being demanded for payment in case the creditor, (i.e. the blessed shopkeeper himself,) should be dead. For all that, tradesmen of that sort would not be categorized as the first class. The first class tradesmen would not even keep a book for poor customers. They would accept whatsoever a poor person brought to them, and would not demand anything from those who failed to pay anything. Such was the kind of trade carried on by great Islamic personages. Accepting a smallest coin of doubtful origin would repel a person's name from the file of manly piety.

42 – HOW TO CARE FOR ONE'S FAITH IN TRADE

It is stated as follows in the fifth chapter of the book **Kimyâ-i-se'âdet**: So unfortunate and so miserable is a person whose worldly trade hinders his trade in the Hereafter. What would be said to a person who would immolate a gold cup in order to get an eartenware bowl? The world is like a piece of a broken flower-pot. It is both valueless and easily broken. The Hereafter, by contrast, is like a gold cup, which is both valuable and durable, not easily broken. In fact, it is inexhaustible. Hard work is necessary so that worldly occupations will yield fruits in the Hereafter and will not drag their pursuers into Hell. Man's capital is his faith and world to come. He must be extremely vigilant lest he should let go of this capital. People who want to care for their faith should be watchful in seven respects:

1– Before going out every morning, every person should say to himself: "I am going to my work in order to earn a living for myself and for my children and family lest they should need anyone else's support, to worship Allâhu ta'âlâ comfortably and properly, and to walk along the path leading to the Hereafter." He should pass through his heart the thought to serve Muslims by doing them favours, helping them, counselling them, and performing my duty of amr-i-ma'rûf and nahy-i-munkar to them. People who are negligent in their namâz and sinners should not be condoned; they should be given religious advice, which is called amr-i-ma'rûf. Tradesmen, civil servants, teachers, judges, and military officers who work with this sincere intention will earn thawâb as long as they do their duty. Everything they do will be an act of worship, their worldly earnings to the bargain.

2– Every person should keep in his mind that he would be unable to live even for a day were it not for all the so many thousands of people working. For instance, farmers, bakers, weavers, ironmongers, spinners, and many another craftsman; all these people are working for him. He needs them all. While all these people are working for him and preparing things for him, would it be right for him to sit idly and not to be useful for anybody? We are all travellers going through this world. We are here only to leave. Travellers should help one another and be in wholehearted brotherly cooperation. Each and every Muslim should entertain this thought. As they start working they should say to themselves, "I shall work to help my Muslim brothers and

to make them live comfortably. As my Muslim brothers serve me, I shall serve them in return. Every Muslim should know that all branches of art are farz-i-kifâya.[1] To adhere to one of the branches with this thought in mind is an act of worship. Regardless of the religious beliefs of the explorers, who may be disbelievers with a heavenly book or unbelievers without a heavenly book, every branch of science and arts is incumbent on Muslims to learn; it is farz for them to acquire mastery over all of them and to try to be trailblazers in all up-to-date means of war. It is, therefore, within the purview of Islamic worship to teach and learn with this intention the sciences and lessons necessary for the achievement of this end. Everything that a Muslim steady with his daily worships of namâz does with this intention, is an act of worship. And everything done by people who do not perform namâz, is sinful. Then, each and every Muslim should perform their daily prayers of namâz and do their (other) duties with the thought that they are performing acts of worship. What bespeaks a person's good and correct intention in doing something is their having chosen an occupation, a job that will be useful to people. In other words, the occupation chosen should be such as people would suffer deprivation were it not for it. Then, pleasures, games, and such like do not have versions within the scope of worship, although they may be foisted on people's minds as arts and libertines who floutingly commit acts of harâm as artists. In fact, arts that will give no benefit to people should be shunned even if they do not entail acts of harâm. It was stated as follows in a hadîth-i-sherîf: "**The best trade is that of a cloth merchant, and the best art** (occupation) **is that of a tailor**."

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[1] Allâhu ta'âlâ's open commandments are called farz (or fardh). With respect to extent there are two kinds of farz: 1– When something commanded is **farz-i-'ayn**, it has to be executed and practised by each and every Muslim. Examples of farz-i-'ayn are **namâz**, **fasting**, etc. 2– When an Islamic commandment is **farz-i-kifâya**, all Muslims will be sinful if no one executes it. When only one Muslim executes or practises a farz-i-kifâya, all other Muslims will be absolved from it. An example of this is acknowledging a Muslim's greeting. When a Muslim greets a group of Muslims, which is done by saying, "Salâm-un-'alaikum' or "As-salâm-u-'alaikum," all the group will be sinful if none of them acknowledges the greeting by saying, "Wa 'alaikum-us-salâm". However, when only one of the group answers by saying so, it will be as if all of them executed the commandment. Incidentally, it is an act of sunnat to greet a Muslim or a group of Muslims. Yet it is farz (farz-i-kifâya) to acknowledge a Muslim's greeting.

3– Worldly occupation should not prevent from working for the Hereafter. Mosques are the places for trade for the Hereafter. The ninth âyat-i-kerîma of the Munâfiqûn Sûra purports: “**Let your property and progeny not prevent you from remembrance of Allâhu ta’âlâ**!” ’Umar ‘radiy-Allâhu ’anh’, the Khalîfa, stated: “O you tradesmen! First earn your sustenance for the Hereafter! Then work for your worldly sustenance!” Of our superiors, the ones who engaged in trade would work for the Hereafter througout the morning and evening hours, reading (or reciting) the Qur’ân al-kerîm, hearing the lessons reviewed, making tawba and prayers, improving themselves in knowledge, and teaching what they had learned to younger people. Selling roasted sheep’s head and morning soup was the dhimmîs’ and children’s business. For, the Muslims’ place in the morning and in the evening was the mosque. Angels responsible for recording men’s deeds switch once in the morning and once in the evening. It was stated in a hadîth-i-sherîf: “**When angels deliver people’s deed-books, good deeds recorded at the beginning and at the end** (of each period) **will cause the mid-day practices to be recorded in their favour**.” Another hadîth-i-sherîf reads as follows: “**Angels responsible for day and night shifts meet on their ways back and fro in the morning and in the afternoon. Haqq ta’âlâ asks the angels** (off duty)**, ‘How were My slaves when you left them?’ ‘Yâ Rabbî! We found them performing namâz, and they were performing namâz when we left them,’ reply the angels. Thereupon Allâhu ta’âlâ declares, ‘Then,** (o My angels,) **bear witness to this: I have forgiven them.’** ” During daytime as well, Muslim tradesmen and craftsmen should make haste to the mosque as soon as they hear the azân (adhân) being called. [If they find an imâm who loves and cares for his faith, they should join the jamâ’at behind him. However, they should avoid imâms and hâfizes who prefer worldly advantages at the sacrifice of their faith and who are quite unaware of Islam, so that they jumble up Islam with harâms and bid’ats; they themselves, their voices and statements should be fought shy of.] Our superiors, as they elucidate the âyat-i-kerîma that purports, **“Their trade and sales will not cause them to forget about Allâhu ta’âlâ**,” relate that there were ironmongers. As they beat iron they would hurry to the mosque as soon as they heard the voice calling the azân, without even striking with the hammer they had raised. And tailors would found themselves making for the mosque without pulling out the needle they had pushed in.

4– Out shopping, the tongue must be making dhikr and tasbîh

of Allâhu ta'âlâ and the heart should be in constant remembrance of Him. The tongue and the heart should not be let loose, wandering idly. It should be known very well that once that moment has been wasted away, an entire world sacrificed will not suffice to bring it back. Remembrance managed among unaware people will yield plenty of thawâb. Resûlullah 'sall-Allâhu 'alaihi wa sallam' stated: "**A person who makes dhikr of Allâhu ta'âlâ when he is among unaware people is like a young green tree among dried-up trees, a living person among the dead, one of the heroes fighting like lions amidst cowards fleeing from the battlefield**." Once he stated: "**If a person says the following prayer as he goes out shopping two million thawâbs will be recorded in his name: Lâ ilâha il-l-Allah, wahdehu lâ sherîka leh, la hul mulk-u wa la hul hamd-u, yuhyî wa yumît, wa huwa hay yun lâ yamût, bi yadi-hil-khayr, wa huwa 'alâ kulli shay'in qadîr**." [As in this hadîth-i-sherîf, quantitative values attached to the amounts and numbers of thawâbs and sins, to celestial measures and distances, to time-lengths in the Hereafter, to the creation of the world, and to the number of creatures mentioned in various hadîth-i-sherîfs, are not intended for precision in the numbers and amounts, but for their greatness. For instance, when a person eventually sees another person whom he has been looking for laboriously for a long time, he may exclaim, "Oh, I've found you after the tenth attempt!" Junayd Baghdâdî 'quddisa sirruh' stated: "There is many a person in the market place who is more valuable than people sitting in a ring of sôfîs." At another time he stated: "I know a kind of person who performs three hundred rak'ats of namâz and says thirty thousand tasbîhs daily in the market place." Some scholars said, afterwards, that the person alluded to was Junayd Baghdâdî himself. In short, there is always plenty of thawâb for people who engage in worldly occupations for the purpose of keeping their faith and acts of worship intact. Those who work only to earn money and hoard worldlies will be deprived of that thawâb. In fact, such people's hearts are continuously in their shops, although physically they are in the mosque, performing namâz. Their thoughts constantly wander.

5– Fondness for worldly occupation should be avoided. For instance, we should not be the earliest shopper and the latest to leave the market place. We should not make hazardous and long-distance journeys. We should not embark on sea [or air] voyages for the sheer purpose of earning worldlies. Mu'âz bin Jabal 'radiy-Allâhu 'anh', (d. of plague, 18 [639 A.D],) one of the blessed

Sahâba, stated: “At market places the devil tries to coax Muslims into sinning by lying, cheating, perfidy and swearing oaths. It is more persistently importunate with people who get there early and leave late. It was stated in a hadîth-i-sherîf: “**The worst tradesmen and salesmen are the ones who go** (to the shopping place) **early and leave late**.” It should be made a habit not to go out before having performed the morning prayer and learned a few things by reading. After earning as much as we need of worldlies, we should engage in earning the Hereafter. For, life in the Hereafter is endless, the need for the Hereafter is much more serious, and bankruptcy in the trade for the Hereafter constitutes a menace. Hammâd ‘rahmatullâhi ta’âlâ ’alaih’, (d. 120 [738 A.D.], the great Walî and scholar who trained and educated Imâm A’zam Abû Hanîfa, engaged in trade. He sold headgears. Whenever his daily earnings reached two habbas he would pack up and leave the market place. Some of our superiors would go to the market place twice a week. Some of them would go every day except for Friday and leave by the time of early afternoon prayer. Others would continue their buying and selling until late afternoon prayer at the latest. All these blessed people would leave earlier if they had earned the amount they needed, go to the mosque, and spend the rest of the time worshipping and acquiring knowledge till evening.

6– Doubtful things should be kept clear of. It goes without saying that a person who approaches harâms will be sinful and fâsiq. [Things that are doubted about should be learned from books written by scholars of Ahl-as sunnat. Hâfizes and so-called religious teachers who are unlearned and books by doubtful authors should not be trusted.] Anything of doubtful origin, especially those which stir annoyance in one’s heart, should be rejected. Interactions of buying and selling should not be made with cruel, deceitful and perfidious people, people who misuse oaths in their sales, and shopkeepers who carry articles the sale of which is harâm. Cruel and fâsiq people should not be sold anything on credit. For, the seller will feel sorry when such people die (before having paid their debt). And it is sinful to feel sorry for the death of a cruel person, [i.e. a person who harms Muslims and Islam physically or by way of speech or writing.] It is not something permissible to support them. For instance, it is sinful to sell paper to people who make fun of Islam and who try to demolish Islam by writing and publishing mendacious and falsifying books. In short, dealing with everyone in business should be avoided. Right people should be looked for. At one time a

tradesman could go into a business dealing with anyone. For, everyone knew how to buy and sell (suitably with Islam's instructions), and all people observed the rules they knew very well. Later, times changed to worse so that one or two people would have to be shunned in business. Then there came even worse times when few people would fulfil the qualifications to be preferred as a second person in one's business transactions. Even worse is feared, for one day you will find not a single person with whom you can safely interact in your buying or selling. It was a long time ago when our superiors predicted this degeneration. Perhaps it is the time our superiors anticipated with such grave fear that now hangs heavy on our hands. Buying and selling are being done with anyone, with a total lack of discrimination. And some unlearned hâfizes add fuel to the flames by saying, "Today it is the case the worldover. Personal property has been jumbled up with harâms far and near. It has become impossible to be safe against harâms." These words are quite wrong. The facts are quite the other way round. We shall elucidate this in the following chapter.

7– In an interaction of buying and selling, words exchanged with the person being dealt with, attitudes assumed, and articles given and taken should be calculated well and correctly. It should be kept in mind that all these things will be accounted for in the Hereafter. One of our great guides in Islamic matters dreamt of a (dead) grocer. He asked the gocer, "How did Allâhu ta'âlâ treat you?" The latter replied, "A book of fifty thousand pages was placed before me. 'Yâ Rabbî,' I asked. 'Who do these pages belong to?' I was told that I had dealt with fifty thousand people and that each page contained an account of my dealing with one of them. When I looked more closely, I saw that each of my dealings was reflected with all its minutest particulars on the page allotted for it." A penny's worth of cheating or injustice will bounce back with heavy retribution on the offender, and there will be no help around.

Such were the ways and manners of our superior and blessed guides in observing the principles of our faith, Islam, as we have so far been trying to unfold. This way of principles has been consigned to oblivion today, so that next to no one seems to know of their existence. Anyone who manages to observe one of these principles today will be rewarded with plenty of thawâb. Rasûlullah 'sall-Allâhu 'alaihi wa sallam' stated: "**A time will come, when Muslims perform one-tenth of the acts of worship that**

you have been observing today they will be safe against torment." When the best of Mankind was asked about the reason he explained: "**Because great help is being provided for your performance of good deeds. Not only will those people be deprived of any support, but also they will face various sorts of obstruction**." Our purpose in quoting this hadîth-i-sherîf is to help the contemporary Muslims lest they should despair in the face of the time's vices. Then, we should not give up hope or think that the difficulties written above are impossible to overcome. The better the performance, the larger the profits. A person who is convinced that the Hereafter is better than this world will manage to observe all these principles. The highest cost of observing them all could be nothing worse than poverty, a few days of which will be welcomed with alacrity when the benefit to be reaped is eternal felicity and unending comfort. As a matter of fact, many people venture into onerous treks in stormy and snowy weather conditions for the sake of earning a few things and put up with many a deprivation to attain a worldly rank or position. When death comes, however, all their earnings go out of their possession and an entire life spent wearing themselves out comes to naught.

43 – THIRD VOLUME, 116th LETTER

This letter, written to Khwâja 'Abd-ul-Mekârim, commends serving the slaves of Allâhu ta'âlâ:

May Allâhu ta'âlâ protect (us) against excess in behaviour! May He bless us with the lot of adhering to the level-headed, equitable, and right way! If Allâhu ta'âlâ has bestowed upon a slave of His the gift of accomplishing useful and beautiful deeds and meeting the needs of many people, so that many people will find refuge with him, that gift is a very great blessing for him. Allâhu ta'âlâ has called His slaves 'My family' and, being very compassionate, He has undertaken to provide the food and sustenance of all people. If Allâhu ta'âlâ employs a slave of His for the procurement of the food and sustenance of a few of His other slaves, so that this slave will now be responsible for the training, education and welfare of his slave siblings, He will have granted that slave of His a great blessing. So fortunate and so prosperous is the person who has attained that great blessing and who knows how to be grateful for it. It stands to reason that a person blessed with such a grand fortune would be wise to appreciate its value, to offer gratitude for it, and to look on it as an honour and happiness to serve the family of his Owner and Rabb, and he would have enough reason to take pride in training and educating the born slaves of his Rabb (Allâhu ta'âlâ). Hamd (praise and gratitude) be to Allâhu ta'âlâ that all the people being there are telling about your acts of goodness and kindness. Your acts of benevolence and favour have been on the grapevine far and near.

THE NAFS

There are moments when it swells like oceanic waves;
Envelops its spirit, like unbreakable rings.

There are moments when it calms down, like a cool spring;
At your disposal, like a most beloved darling.

There are moments when it wishes all should be its;
Give it the world, it'll ask for more, faithless being!

There are moments when it is honest to darling;
Eyes in tears with sorrow, such a poor thing!

There are moments when it booms, all its sky lightning;
In a moment it burns many years' earning.

There are moments, it’s an ocean, waveless, soundless;
Embarrassed, remorseful for all its wrongdoing.

There are moments when it’s Pharaoh, Sheddâd, Nimrod;
The condemned devil in veins, circulating.

There are moments, it’s so docile and contented;
World’s none in its eyes, worship is all it’s wishing.

There are moments, it roars like an angry lion;
Or a tiger, wounded, thirsty for blood-drinking.

There are moments when it’s so good, like a touchstone;
All its wishes concord with the Prophet’s uttering.

There are moments, it’s so cruel that the soul bemoans;
With its own wicked hands its grave it keeps digging.

O my heart, that nafs you have is such a menace!
Mind you don’t get entrapped by its fatal slyness!

44 – FÂİZ (INTEREST), BANKING, WAQF in ISLAM

Is it permissible in Islam to establish banks and to carry on your business interactions with banks? Let us say this first: Interest is harâm in Islam. Interest is harâm not only in Islam, but also in all heavenly religions, i.e. in right and true religions. Interest is harâm, regardless of its amount and percentage. It is one of the gravest sins. What interest and banking mean should be understood well. Our religion, Islam, not only approves of establishment of companies and banks that will promote trade, develop and support gigantic industrial institutions, and enhance individual productive capacity, and which will not carry on its business interactions with interest; but also it commands such useful establishments.

A Muslim who has learned his faith Islam well will earn halâl property by engaging in any sort of trade without committing harâms and without falling into the disastrous abyss of interest. With his halâl and barakat-ful earnings, he will be of great benefit to his nation and country. It is stated in the book entitled **Hadîqa**: "Imâm Muhammad Sheybânî[1] was asked why he did not write a book in the science of Tasawwuf, the branch of knowledge he had majored in. His reply was: 'Zuhd and Taqwâ can be attained only by observing Islam's principles in every action and behaviour, and by avoiding social and business agreements that are bâtil, fâsid, or makrûh. And these things in turn are learned by reading books of Fiqh. A person to partake in business and other agreements has to know the conditions and situations wherein these agreements become sahîh or halâl. Therefore, it is farz-i-'ayn for every mukallaf Muslim to learn the 'ilm-i-hâl (behavioral science) needed in these interactions. I have written the book Bey' wa Shirâ so that Muslims should perform this act that is farz.' "

WHAT IS FÂIZ (or fâidh = interest)? As is unanimously

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[1] Muhammad bin Hasan bin Abdullah bin Tâwus bin Hurmuz 'rahmatullâhi ta'âlâ 'alaih', (135 [752 A.D.], Wâsit – 189 [805], Rey,) one of the two greatest disciples of Imâm A'zam Abû Hanîfa. He is one of the two great mujtahids called **Imâmeyn** in matters of Fiqh in the Hanafî Madhhab. Hurmuz, the last ring in his aforesaid ancestral chain, was one of the forefathers of Imâm A'zam. He had become a Believer in the hands of Hadrat 'Umar 'radiy-Allâhu 'anh'.

stated in all books of Fiqh, fâiz means ‘additional, extra property that is stipulated as a condition that one of the giver and the recipient in an interaction of lending, pawning (rehn, or rahn), or buying and selling should give the other party’. It will not be interest if it is stipulated that it will be given to a third person. A hediyya (present, gift) has to be some other kind of property, and it should be delivered separately. For instance, if a person buys four gold quarter-coins by paying one gold coin, it will not be fâiz (interest) for him to give the other party some money as a gift. Nor will the bey’ (sale) be fâsid. For, the gift has not been stipulated as a condition during the sale. Nor will something extra stipulated as a condition for giving a present be fâiz. For instance, supposing a person intending to give a present to another person stipulates that the latter will serve him for a month in return for the house that the former gives the latter as a present, and the latter accepts the condition stipulated; there will not be fâiz (interest) in this agreement. Yet the condition stipulated will be fâsid, and the latter will not have to serve the former, although it will be all right if he does so. **Hediyya** (gift, present) or **hiba** (donation) is something that is an ’ayn, existent and known, and which is given to someone without a return. It is permissible as well to give it with the demand that something specified should be given in return. It is permissible for a person to give a deyn, i.e. a debt due to him, as a present to his debtor or to someone else. However, in case the present is intended for someone else, the creditor will have to instruct that that person should take possession of the present, and that person will have to take possession of it. Once a deyn has been taken possession of, it is an ’ayn. That means to say that the word **’ayn** as used in the definition above means ‘that which is an ’ayn during the agreement or which becomes so afterwards’. [In an interaction of bey’ and shirâ as well, naqdeyn that have not been seen become an ’ayn when they are taken possession of, and thereby the act of ta’yîn (designation), which is necessary at the place of bargain, has been carried out.] It is sunnat to accept a present. The person who makes the present has to (have reached the age from whereon he is to) be (called) a mukallaf Muslim, and the present has to be made from his own property. Making a present will be accomplished once the employment of the locutions prescribed as **îjâb** (ofter) and **qabûl** (acceptance) have taken place, either by verbalization or by action, and after the recipient has taken possession of the present at the place of agreement. It will not be bâtil on account of a needless condition stipulated. The condition

stipulated may or may not be executed. As a present is being given, it is permissible to demand a certain thing in return or to stipulate that one's debt to someone should be paid. The present and the return demanded should be delivered before the parties depart. It is not sahîh to give a bag containing something to eat, a house containing household goods, or a pack animal with a load on its back, as a present. It would be sahîh to give them as a present if they were unoccupied, or to give their contents or loads only. That is, not the **meshghûl** but the **shâghil** can be given as a present. Wool on a sheep, a tree standing alive, fruit on a tree, or milk in the animal's udder cannot be given as a present. A part of something cannot be severed (from the main body) and given as a present if separating it will cause damage. As a one lira gold coin is being exchanged for four quarter gold coins, if either one of the items being exchanged for each other weighs heavier, the exchange will be permissible if the owner makes it halâl for the other party, i.e. if he renounces his right. For, by doing so he will have made a gift of something without separating it from its main body because it would cause damage to separate it. It is not permissible to sell a piece of meat for a heavier piece of meat, even if the difference should be donated. For, it would not cause damage to separate the excess. Once a creditor has donated his due to the debtor, he can no longer demand it back. Taking back an 'ayn that has been given as a present has seven limitations. Without these limitations, it will still be makrûh, although it is sahîh, to take the present back by a verdict reached at by a law-court judge. The seven limitations are: An increase in the amount of the 'ayn given, if it has caused an increase also in its value; death of either party; a present given in the name of a return for the 'ayn gifted, [even if the remunerative present has been given by a third person;] an event whereupon the property that was given to a person is no longer in his possession; nikâh between the two parties, (i.e. their being married with each other;) a tie of kinship between the two parties that makes a nikâh between them eternally harâm;[1] total destruction of the property given as a present. (Any one of) these situations and events makes it unlawful to take back a present given. Alms is a kind of present given to a poor person. It is by no means permissible to take back a deyn that has been donated as a present or alms given. It is not

[1] Please review the twelfth chapter for people between whom Islam's marriage contract termed **nikâh** is eternally forbidden (harâm).

permissible to pay someone’s debt on his behalf without his permission and thereby to make that person indebted to yourself.

In the Madhhabs of Shâfi’î and Mâlikî, fâiz (interest) involves only victuals and money.

1– **Fâiz in borrowing and lending**: Imâm Rabbânî Ahmad Fârûqî Serhendî ‘quddise sirruh’ states as follows in the two hundred and second letter of the first volume (of his great work **Maktûbât**): “It is an act of fâiz to lend by stipulating that more than the amount borrowed should be returned. That is, it is harâm to make a bargain of this sort. All the property obtained by way of a bargain that is harâm will be harâm. For instance, supposing ten bushels of wheat is lent on condition that the wheat to be returned will measure twelve bushels, all the twelve bushels returned will be harâm for the lender. [The two extra bushels will be a human right violated. Therefore, it is wâjib to pay it back. Since the remaining ten bushels is still property that is harâm, it has to be doled out as alms. That it is harâm to lend or borrow with interest is declared clearly in the Qur’ân al-kerîm. Regardless of whether or not a person needs something, it is harâm for him to borrow it with interest. To assert that it is not harâm for a person in need would be an attempt to change a commandment declared in the Qur’ân al-kerîm. The book **Qinya**[1] cannot change a commandment of the Qur’ân al-kerîm. Mawlânâ Jemâl, one of the scholars of the city of Lahore, used to say that the book **Qinya** contained a number of reports and narrations contradictory with those provided by valuable Islamic publications, and that reports of that sort could not be trusted. [It is stated in Ibni ’Âbidîn that the majority of the narrations and reports in the book **Qinya** are weak and unreliable. That book was written by Zâhidî ‘rahmatullâhi ta’âlâ ’alaih’.] Even if we were to take that information in book **Qinya** for granted, then we would be wise to interpret the word ‘need’ used in that information as ‘darûrat and danger of death’. Thereby we would have availed ourselves of the latitude offered in the fourth âyat-i-kerîma of the Mâida Sûra, which purports: “**A person in such straights as could end in death...** .” For, this âyat-i-kerîma points

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[1] That the book **Qinyâ-t-ul-fatâwâ** contains some untenable narrations and reports is stated by authorized Islamic scholars. Its author, Mukhtâr bin Mahmûd Zâhidî ‘rahmatullâhi ta’âlâ ’alaih’, (d. 658 [1259 A.D.],) was a scholar of Fiqh in the Hanafî Madhhab. Among the extremely valuable books he wrote are **Hâwî**, **Mujtebâ**, and **Sharh-i-Qudûrî**.

out an ’udhr (excuse) that may be exploited to exonerate oneself from the state of committing a harâm. If a need of any measure were to be accepted as an ’udhr to be resorted to for a justification for borrowing with interest, there would have been no reason for making interest harâm. For, only a person in need would accept to pay interest. A person not in need would not be willing to make an unwarranted payment. That injunction of Allâhu ta’âlâ would have been groundless and useless. Such slanderous contumely cannot be directed towards the Book of Allâhu ta’âlâ. It cannot even be considered to contain something useless or out of place. Should we assume for a moment that it might be permissible for everyone in need to borrow money at an interest, then need is a sort of necessity, which in turn has various levels. It is not a need to give a feast so that it may compel you to borrow money at an interest. It is stated in books that the decedent’s need from the property he leaves behind is the money to be spent for his shroud and funeral expenses. A feast to be given for the decedent’s soul has not been defined as one of his needs. Although the decedent needs the thawâb for alms more than anyone else does, Islam has not commanded to dole out food, [e.g. the sweet called helva,] (to poor people, to neighbours and acquaintances) for the soul of the decedent. Then, do such acts constitute enough of an ’udhr so that borrowing money with interest for the purpose of performing them should be justified? Even if it should be admitted that such things are among the needs of the decedent, will it be halâl to eat the food bought and cooked with the money borrowed with interest? It does not become a Muslim to conjure up an image of an ’udhr and need from living conditions such as their having many children and the man’s being away for military service and then say that therefore it is permissible and halâl to borrow money with interest. It is necessary to perform amr-i-ma’rûf and nahy-i-munkar by showing the right way to people who have been caught in that dreadful trap. How can a Muslim ever commit such an act of harâm? There is many a way whereby to obtain one’s needs in manners that are halâl. [These ways must be looked for. If a person looks for such ways and cannot find any, only his needs for a living, such as food, clothes, and dwelling, become a darûrat each. Dwelling is the only need wherefore the so-called necessity has (mostly) become the case.]

You say that we are living in such a time as it has become impossible to earn a living without having recourse to doubtful means. It is true. Yet, doubtful means should still be avoided as

strictly as possible. It has been stated (by those superior and blessed guides of humanity) that ploughing the land without an ablution and sowing the seeds without an ablution will remove the barakat and the quality of tayyib [beautiful] from the rizq, (which will come to the living anyway.) In India today, there is next to no one who observes this subtlety during work. Yet Allâhu ta'âlâ asks His slaves to do things as well as they can. To avoid borrowing money with interest for the purpose of giving a feast is something everybody can do quite easily and well. A person who says that something is harâm although it is halâl, or vice versa, will become a disbeliever. This principle, however, is the rule only with things that are definitely and clearly halâl or harâm. [This rule subsumes acts that are clearly declared to be halâl or harâm in the Nass, (i.e. âyat-i-kerîmas or hadîth-i-sherîfs with open meaning,) and acts that are unanimously stated to be so in all four Madhhabs, although no open Nass concerning them have been found.] Acts that are inferred to be halâl or harâm are beyond its scope. There is many an act that is mubâh for Muslims in the Hanafî Madhhab although it is harâm according to the Shâfi'î Madhhab. And with many others the case is quite the other way round. A person cannot be blamed for not saying that borrowing money with interest will be halâl for a person whose neediness is dubious, or for not saying that a certain act is halâl in the face of the fact that it is something clearly declared to be harâm. He cannot be called a heretic or a fuddy-duddy. He cannot be forced to say that it is halâl. He is more likely to be right. In fact, that he is right is quite obvious. People who speak ill of him are wrong and dangerous. Mawlânâ 'Abd-ul-Fattâh said, 'It is good to borrow money without interest. Why do they borrow with interest?' And you reproached him for denying something that is halâl. My son, that protest of yours would be justifiable concerning something that was definitely halâl. You might be right to defend a person who borrowed money with interest on account of his need and to say that it would be halâl in cases of need. But then it would still be better to avoid doing so (even in such cases). People of wara' have avoided doing things for which (special) permissions called rukhsats have been suggested (by authorized Islamic scholars), and they have pointed to the way of 'azîmat for everybody. The muftîs in the city of Lahore have said that it is permissible for a person in need. But needs vary. If all kinds of needs should be accepted as an 'udhr, then there will be no sitution left wherein interest is harâm, and the prohibition of interest will be an

impractical injunction. It is not permissible to borrow money with interest, and not even with the intention of feeding poor people for the execution of a kaffârat for a (broken or omitted) fast or a (broken) oath. A person too poor to feed other poor people might as well execute the kaffârat by fasting.” (Please review chapter 6 for ‘kaffârat’.)

2– **Fâiz (interest) in rahn (or rehn)**: Rehn, (or security,) or hypothecation means pledging, holding something as a security for a certain reason. In Islam, it means giving something as a pledge or security to the creditor, or for safekeeping to a third person who is an ’âdil Muslim, in return for property to be repaid. A rehn is given only for a debt of property. A rehn is not demanded in rights pertaining to homicide or oaths or for security measures such as guaranteeing good work from workers and preventing any possible theft on the part of visitors. A rehn cannot be taken by force. Agreement of a rehn can be made by way of ’aqd, i.e. offer and acceptance, and by way of a dealing that is carried out by a verbal bargaining as well as by an exchange of letters. A condition to be fulfilled is the completion of give-and-take business; in other words, the property to be left as the rehn (pledge) should have been delivered. Before the delivery the debtor may desist from leaving the rehn. The property to be left as the rehn has to be something saleable. Anything that is measured by weight or by capacity, as well as a gold or silver article or money can be given as the rehn. It is not permissible to give one’s share of property commonly owned as the rehn. It is not permissible to give the following as the rehn: fruit on a tree without the tree itself; crop in a field without the field itself; trees bearing fruit without the fruit; a field having crop without its crop. It is permissible to give a house as a rehn, even with the household goods in it. An animal or grape juice may be given as a rehn. The creditor can forfeit the rehn, but the debtor can not. The rehn is detained until the debt is returned. First the debt is paid; then the rehn is returned. If the debtor dies, his heir sells the rehn and pays the debt with the money he gets. Then he takes the rehn and delivers it to the buyer. Money that should remain is given to the other creditors, (if the decedent had other money and other debts.) When the time of payment of the themen of a sale comes, the debtor appoints the creditor or someone else, who should be an ’âdil Muslim, as his deputy and gets the rehn sold, or he might as well sell it himself. The debt is paid out of the themen and thereby the rehn is freed. Without the creditor’s permission the debtor cannot sell his property that he

has given as a rehn. Nor can he demand it so that he may sell it. As the rehn is delivered to the creditor, the creditor may stipulate it as a condition that he will be appointed deputy for a future sale of the rehn. Once the debtor has accepted that condition, he cannot dismiss the creditor. Should the debtor die, nor will this divest the creditor of his immunity from dismissal. In case the rehn perishes, the creditor demands the difference from the debtor if the value of the rehn was less (than that of the debt). The rehn is not a restriction on the creditor's demanding his due. Nor could it prevent the creditor from having the debtor imprisoned for not paying the money he borrowed although he has property (enough to do so).

The creditor cannot cause the debtor to lose ownership of the rehn. Only with the debtor's permission can he use the rehn. One of these two people may lend the rehn as an 'âriyat to a third person with the permission of the other party. Thereafter, either party may make that thing a rehn again. As well, the creditor may lend the rehn in his possession as an 'âriyat to his debtor who has given it (as a rehn) to him. If the rehn perishes because the creditor in possession of it has not taken good care of it or because he has been using it, he will have to pay its value. It is sahîh for a (third) person to buy (someone's) property that has been (in someone else's possession as) a rehn. The creditor may not deliver the rehn in his possession to the buyer. The buyer will (have to) wait until the debt has been paid and thereby the rehn has been freed. Or the bey' (sale) will be cancelled by the court of law.

If, as the lending takes place, it is stipulated as a condition that the creditor will be permitted to benefit from the rehn, fâiz (interest) will be involved in the lending. For instance, it will cause fâiz to stipulate that the creditor will be free to use the animal or the field or the clothes that he is to be given, by, say, milking the animal. It is permissible for the creditor to use the rehn with the permission of the debtor, if the permission is given afterwards, (i.e. after the lending.)

3– **Fâiz in Bey' and Shirâ**: According to (two of the four Madhhabs, i.e.) the Madhhabs of Hanafî and Hanbalî, existence of fâiz in a certain sale means existence of both or either of the following two aspects in both the mebî' (commodity being sold) and the themen (price being paid). In (the remaining two Madhhabs, i.e.) the Madhhabs called Shâfi'î and Mâlikî, the two conditional aspects will matter only when the two items, (i.e. the mebî' and the themen,) are gold or silver or victuals.

1– Qadr, i.e. their being measured by weight or by capacity;

2– Their being of the same genus.

A sale containing fâiz cannot be made on credit. It always has to be made by ready payment. The sale's being made on the basis of ready payment requires the mebî' and the themen's having (the attribute of) ta'ayyun.

It is a commandment of Islam that wheat, barley, dates, and salt should always and everywhere be measured by capacity, and gold and silver should always and everywhere be measured by weight. How things other than these six items should be measured is to be determined in accordance with common practices. Please see the twenty-ninth chapter!

If both the (aforesaid) causes of fâiz are nonexistent in a sale, that sale is not tainted with fâiz. Hence, when one of the items measures more and the sale is made on the basis of ready payment or on credit, fâiz will not be the case. For instance, it is permissible to sell ten metres of flannelette for fifteen metres of printed cloth on the basis of ready payment or on credit.

If both the causes coexist, the sale will be permissible only when both items are equal in measure and the bargain is made on ready payment, and it will be tainted with fâiz when the items differ in amount although the basis of ready payment is effected, or when one of the parties is allowed credit although the items are equal in amount. As a matter fact, sales that are harâm when the item that measures more is to be paid on the spot, are always harâm, regardless of whether it is allowed credit and both items are equal in amount. A sale on credit is one thing; and a sale wherein the bargain is made that the payment (of the themen) will be made on the spot and thereafter the payment is adjourned, is another. When a tin of wheat is sold for another tin of wheat on the basis of ready payment, the items (to be exchanged) have to be measured as the bargain is being made. The sale will not be permissible if they are measured afterwards, even if they turn out to be equal. There will be fâiz in a sale whereby a bushel of wheat is sold for another bushel of wheat on credit, or for a less or more amount of wheat on the basis of ready delivery. In other words, it is not permissible; it is harâm. Licitness of selling a commodity for another commodity of the same genus and with the same weight or capacity on the basis of ready payment requires the two commodities' having different characteristics. For that matter is it permissible to have money changed. If their characteristics also are

the same, the sale will not be sahîh, since it will be useless.

In case either one of the (aforesaid) conditions exists, the sale will be permissible when it is made on the basis of ready payment different as their amounts may be, and yet it will not be permissible if it is made on credit, even if their amounts are the same, since in the latter case there will be fâiz in the sale. It is permissible to sell one bushel of wheat for two bushels of barley, or five eggs for six eggs, on the basis of ready payment, [or to have paper bills changed, provided that the change be delivered on the spot.] On the other hand, there will be fâiz in selling five metres of printed cloth for five metres of (other) printed cloth, or a lorry for a(nother) lorry, on credit. The sole permission that has been given here is for the purchase in return for gold or silver on credit of other kinds which also are measured by weight. For that matter, sales of property made by using money are not susceptible to fâiz. Nor will there be fâiz in sales made in return for paper money.

If both the items measured by weight weigh less than a habba, i.e. a grain of barley, and when both the items measured by capacity are less than half a sâ',[1] measurement of these amounts will be impracticable. That means to say that the first condition has been judged to be out of the question in such cases. Therefore, it will be permissible to sell a palmful of wheat for two palmfuls of wheat or one fels for two or more felses (fulûs) on the basis of ready payment. For, two palmfuls measure a capacity less than half a sâ', and three felses constitute a weight less than a habba. There will not be fâiz in a sale of two centigrams of gold for four centigrams of gold on the basis of ready payment. Yet fâiz will be entailed when the sale is made on credit. Since one qirât-i-shar'î is a weight equal to that of five grains of barley, one habba is five centigrams.

Alloys with more than fifty per cent gold or silver have been categorized as pure gold or silver. In an interaction of sale or lending their weight is taken into account. Alloys with less than fifty percent gold or silver are classified under urûz (or urûdh=all kinds of goods and chattels with the exception of gold and silver). They can be sold in return for pure gold or silver more than the gold or silver they contain, or in return for more of their kind, on the basis of ready payment. For, the excess of the gold will partner the other metal in the item to be given in return. Such monetary

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[1] A sâ' is a measure of capacity equal to 4.2 litres. Please see the third chapter.

items, as well as monetary coins termed fulûs are measured by weight as well as by number, depending on the common usage. However, the gold or silver always has to be taken possession of, even if its amount in the alloy is lesser. When they are not used as themen, i.e. when they are not current coins, they will have (the attribute of) ta'âyyun when they are made ta'yîn of.

A sale's being based on ready (or on-the-spot) payment means that each of the items of property (to be exchanged in the sale) is an 'ayn before both parties leave the place of bargain. This state is termed 'having (the attribute of) ta'ayyun'. Items of property with the exception of gold and silver will have (the attribute of) ta'ayyun when they are made ta'yîn of as the bargain is being made. Their sale will be (a sale termed) **muqâyada**. If only one of the two items is made ta'yîn of, the one that is an 'ayn, (i.e. the one that has been made ta'yîn of,) will be the mebî'. Property that is a deyn, as well as gold and silver, will have (the attribute of) ta'âyyun by being taken possession of before the parties depart.

The author 'rahmatullâhi ta'âlâ 'alaih' of **Durr-ul-mukhtâr** states: "A sale by which wheat is sold for (other) wheat is permissible if both of them are made ta'yîn of, i.e. if each of the amounts to be exchanged for each other is an 'ayn. It is not necessary for them to have been taken possession of (by the two parties). For, in sales other than a sale of sarf, (which is explained in the final part of the thirty-first chapter,) items of property will have (the attribute of) ta'ayyun when they are made ta'yîn of. And when they have (the attribute of) ta'ayyun it will become necessary to give them themselves. Their likenesses cannot be given. That is, when two items of property to be sold in return for each other are goods both of which are measured by capacity or by weight and are of the same genus, or of different genuses [with the exception of gold and silver], both of them have be 'ayns as the bargain is being made. Regardless of whether they are present (at the place of bargain) or absent, making ta'yîn of them, (i.e. designating and specifying them,) will suffice. It will not be necessary to take possession of them before leaving the place of bargain. Gold and silver, however, have to be taken possession of before departure. In other words, they have to be delivered into each other's hands and pockets. A sale of sarf will not be sahîh if the commodities, (gold and/or silver,) are handed, say, one or two minutes after the departure.

Supposing a person is making a sale of sarf and what he is to receive is present and what he is to give is absent, (i.e. he does not

have it at that moment;) he should not make the agreement at that moment; he should accept the item that is present [either as a loan or] as an 'âriyat and, when he gets possession of the item he is to give, he should make the bargain and agreement and deliver the item before leaving.

Supposing a sale being made contains fâiz and one of the items to be exchanged is an 'ayn and the other one is a deyn; the sale will be permissible on the condition that the one that is an 'ayn should be the mebî' and the one that is a deyn should be the themen and the themen [that is a deyn as the agreement is being made] should be taken possession of before departure. For, a deyn will have (the attribute of) ta'ayyun only by being taken possession of.

If a deyn is the mebî, the bey' (sale) will not be sahîh even if it is present during the event of agreement between the parties. Property tainted with fâiz (on account of the aforesaid two situations) and mentioned with words and phrases used as conjunctive prepositions such as '**... for ...**', and '**... in return for ...**' will serve as the themen (price) in the sale. When such property is mentioned without prepositions with that function, it will be the mebî'. Agreements made with statements such as, "I have sold this one bushel of wheat (in return) FOR a bushel of this year's wheat," or "I have sold this one bushel of wheat (in return) FOR a bushel of this year's barley," are permissible. For, in both examples the property is the mebî' and the deyn is the themen. However, the deyn will have to be taken possession of before the place of agreement is left. For, permissibility of a bey' tainted with fâiz requires both the mebî's and the themen's being an 'ayn each. Ta'ayyun of a deyn, [which is the themen in our examples,] is possible by its being taken possession of. It would be permissible for them (the seller and the buyer) to leave (the place of agreement before an 'ayn had been taken possession of. If the person (in the position of the buyer) said, "I have bought a bushel of good wheat from you (in return) FOR this one bushel of wheat," or "I have bought a bushel of this year's barley from you (in return) FOR this bushel of wheat," it would not be permissible even if the deyn, (i.e. the bushel of good wheat in the first example and the bushel of this year's barley in the second,) had been brought to the scene of agreement. For, property that were a deyn would have served as the mebî' and thereby something that were not an 'ayn would have been sold, which in turn, is not permissible."

With respect to (being tainted with) fâiz, there is no difference between 'new' and 'old' or between 'this year's' or 'last year's'. For

instance, old copper should be exchanged for new copper with the same weight and on the basis of ready payment (or delivery). If the new copper weighs lighter, a small amount of other property or money should be added to it and given on the spot.

With metals other than gold and silver, artistry and workmanship will make a difference. It is permissible to sell a copper samovar in return for another copper samovar that is heavier. For, metals other than gold and silver may transcend measurement by weight on account of artisanship and be sold by the piece. However, at places where these things are customarily sold by weight, difference in weight will entail fâiz. Articles of gold and silver may shift from the position of the themen to that of the mebî' with the effect of artisanship they have gone through. That is, they may have (the attribute of) ta'ayyun by way of ta'yîn. Yet they still have to be taken possession of, and their alloys with more than fifty per cent purity have to be measured by weight.

The author 'rahmatullâhi ta'âlâ 'alaih' of the book **Bedâyi'** states as follows in the two hundred and thirty-sixth [236] page of its fifth chapter: "As fulûs of the same number are being exchanged for each other, [as paper or metal money is being changed,] or as fulûs are being given in return for things other than fulûs, [such as gold or silver or another 'ayn,] the fulûs always occupy the position of the themen. They will not have (the attribute of) ta'ayyun when they are made ta'yîn of. They will remain as a deyn so long as they are not taken possession of. As they are being exchanged for the naqdeyn, (i.e. gold and silver coins,) either one of the two items being exchanged for each other will have to have (the attribute of) ta'ayyun by being taken possession of. Otherwise the sale will be bâtil because it will involve an exchange of two deyns for each other, although both conditions of fâiz are nonexistent here. As fulûs are being exchanged for the same number of other fulûs, [in which case their nominal values are the same,] one of the two conditions of fâiz will be involved [and therefore the sale will be harâm when it is made on credit]; hence, both the items being exchanged for each other will have to be taken possession of. If fulûs are being exchanged for a different number of other fulûs, [e.g. if a hundred lira bill is given and the total value of the change received in return is less than a hundred liras,] both the items being exchanged for each other should be made ta'yîn of for safety against fâiz. According to the Shaikhayn, (i.e. Imâm A'zam Abû Hanîfa and his blessed disciple Imâm Abû Yûsuf,) only by doing so or, [in a sale by

selem,] by niyyat (intention), will the fulûs shift from its position as the themen and change into a likeness of urûz. (Please review the thirty-fifth chapter for **sale by selem**.) Thereby they will have (the attribute of) ta'ayyun when they are made ta'yîn of, (i.e. when they are designated and made into an 'ayn.) However, they will still be measured by number. Because one of the conditions of fâiz exists, for they are of the same genus, their being made ta'yîn of will make the sale one that is made on the basis of ready payment. Once an item of property has been made ta'yîn of, its self will have to be given. It cannnot be substituted." Although making ta'yîn of one of the items will suffice, in that case the deyn, (i.e. the item that has not been made ta'yîn of,) will have to be the themen (price), and it will have to be taken possession of before departure. This rule also leads to the inevitable corollary that it is not permissible to get a note, a bill of exchange or other paper discounted in a bank.

Business dealings among dhimmîs and between Muslims and dhimmîs are identical with those among Muslims themselves. The only difference is that sales of pork and wine are permissible among dhimmîs. Possessions of a murtadd living in the dâr-ul-harb, [i.e. in a country of Jews, Christians, and/or polytheists,] are not his own property.

Gold and silver are measured by weight. Since the printed (gold and silver) coins have a certain weight, it is permissible to treat them with numerical measurement. As one deals with them, however, one should keep their weight in mind.

Supposing a person owes ten dirhams of silver money; if he pays his creditor a gold coin in lieu of those ten dirhams, that is, if he sells that one dirham on the basis of ready payment, the interaction will be permissible. For, the silver coins have been used as the themen, which would have to have been taken possession of by the debtor. And since they are already in his possession, redelivery has been unnecessary. For, synchronous ta'ayyun of the mebî' and the themen has been made compulsory for safety against fâiz in sales on credit. Fâiz of that sort is out of the question in a debt paid off. In a debt, a prospective danger of fâiz may be considered. (**Durr-ul-mukhtâr**.) Please review the final part of the thirty-seventh chapter! It is written in **Riyad-un-nâsikhîn**:

Below, we are writing the thirty-three examples of fâiz in a sale and in lending, borrowing the information from the book entitled **Erba'în-i-Selmânî**, by 'Umar Nasafî 'rahmatullâhi ta'âlâ 'alaih', (461 [1068 A.D.], Nasaf, Fâris, Iran – 537 [1143], Samarkand:)

1– If something sold by the bushel, (i.e. by capacity,) is being sold on the basis of ready payment for something of its own genus, [e.g. wheat for wheat,] there will be fâiz in the sale in case one of the items (being exchanged for each other) is more in capacity.

2– There will be fâiz, again, if one of the items is to be delivered on the basis of credit, [i.e. if it does not have (the attribute of) ta'ayyun before the place where the agreement has been made is left,] equal as they may be in capacity.

3– If something sold by weight is being sold on the basis of ready payment for something else of its genus, [e.g. an ornamental gold coin worth five Turkish gold liras for other gold coins,] there will be fâiz if the two items being exchanged do not weigh the same.

4– There will be fâiz if their weights are equal but one of them is to be delivered on credit. To be safe against fâiz in a sale where two items of the same genus but different capacities or weights are being exchanged for each other on the basis of ready payment, a little of something different is put together with the item with the lesser capacity or weight and the bargain is made as the two things are together. Safe as one will be against fâiz by doing so, this method will be makrûh verging on harâm if the additional item chosen is something with little value. In fact, the sale will not be licit if the addition is made afterwards.

5– In a sale where two items that are of different genuses but both of which are sold by the bushel are being exchanged for each other, [e.g. barley for wheat,] there will be fâiz if one of them is to be delivered on the basis of credit although they are of equal capacities, whereas the sale will be safe against fâiz if both the items are delivered on the spot although their capacities may differ.

6– In a sale where two different kinds of items sold by weight are being exchanged for each other, [e.g. gold for silver,] there will be fâiz if one of the items is to be delivered on the basis of credit even if their weights are equal. The sale will be free from fâiz when both the items are delivered on the spot, [i.e. when they are handed to the other party,] even if they are of different weights. A sale on credit where two items containing gold and/or silver are exchanged for each other will entail fâiz.

7– Any sale on credit where two items of the same genus are being exchanged for each other will entail fâiz, regardless of whether they are measured by weight or by capacity or otherwise,

the same as their amounts may be.

8– There will be fâiz in a sale where two items that are of the same genus and which are measured by weight or by capacity are exchanged wholesale for each other without measuring them. The fâiz will hold on even if their weights happen to be equal. For, as an agreement for the sale of such things is being made, the sale's being sahîh requires measurement and thereby an accurate knowledge that they are of the same measure.

9– If an item of property that is measured by capacity or by weight is commonly owned by a few people, it will cause fâiz to divide and share it without measurement. [For, as will be explained in the forty-fifth (next) chapter, in that case, (i.e. when commonly owned property is divided and shared without being measured,) each shareholder will have exchanged another's property that has remained in his share for his property that has remained in that other person's share. In other words, they will have sold these things to each other without measuring them. They will have to forgive each other by mutually making their rights halâl for each other and purge their gains from harâm elements by exchanging things of different kinds; for instance, one of them gives a note-book to the other one, and that second person gives, say, a handkerchief to the former.]

10– It will cause fâiz to lend or borrow something that is measured by capacity or by weight without measuring it.

11– It will cause fâiz to sell wheat in ear for wheat (in store), even if they are of equal amounts.

12– It will cause fâiz to sell wheat in ear for (other) wheat in ear, even if their amounts are equal. For, wheat has to be measured out of ear.

13– It will cause fâiz to sell fruit on trees for the same fruit that has been reaped.

14– It will cause fâiz to sell fruit on trees for the same fruit on trees.

15– It will cause fâiz to sell wheat for wheat flour or for roasted wheat, even if they are of the same volume. For, wheat will not retain its volume when it is ground into flour.

16– It will not cause fâiz to sell wheat for bread. For, bread has become quite another genus, and it is sold (in loaves, lumps, etc., which are measured) by the piece.

17– Things with different origins or places of application or

whose attributes have been changed by people are of different genuses. For instance, the items making up the following pairs differ in genus: vinegar made from dates vs. vinegar from grapes; mutton vs. beef; milk from a sheep vs. milk from a cow; wool from sheep vs hair from goats; and wheat vs. bread (made from wheat flour). Milk from a goat and that from a sheep are of the same genus in matters concerning fâiz.

18– According to Imâm Muhammad, it will not cause fâiz to lend bread by the piece or by weight. According to Imâm Abû Yûsuf, there will not be fâiz only when it is lent by weight.

19– When things such as sesame, olives, and walnuts from which oil is extracted are sold in return for the oil obtained from them, the sale will be permissible if the amount of the oil is more than that of the oil contained in the crop; in that case the oil equal to the oil in the crop will have been sold for the oil in the crop, and the excess will have been sold for the sediment. Otherwise, i.e. if it is equal or less, or if it is not known which is the case, the sale will entail fâiz.

20– There will be fâiz in the following sales when the former item in each pair is equal to or less than the latter: grapes for grape juice; a sheep for sheep wool; trees with fruit for the same (kind of) fruit; an area of sown land for an area of bare land; wheat ripe and in ear for unripe wheat; a pair of ear-rings set with stones for another pair without stones; a sword or belt ornamented with gold for a sword or belt without gold; and rice in the husk for rice husked.

21– Supposing a person himself or his deputy sold an item of property for, say, ten liras and delivered the item to the purchaser (and did not receive the money); now, it will cause fâiz (for the first person) to buy it for, say, nine liras before having gotten possession of the money (he sold it for). He may buy it after getting possession of the money, (i.e. the ten liras.) After selling an item of property and yet before getting possession of all the money, it will cause fâiz to buy that property back together with something else for the same price. For, in that case a part of that same price will be for that additional property and thereby the former property will have been bought more cheaply, which in turn will cause fâiz. However, it will be permissible to buy that additional property.

22– After selling an item of property on the understanding that it will be delivered, say, two months later, it will entail fâiz to agree

on an earlier delivery of a lessened amount of the property.

23– Supposing two people, each in possession of a sack of wheat, mixed their wheat without measurement and had the mixture ground into flour; it will cause fâiz for them to agree to divide the mixture into two.

24– It will also cause fâiz to mix the two amounts of flour, to make bread from the mixture, and then to divide the bread. The capacity of each person's flour should have been measured.

25– It will cause fâiz to mix walnuts or almonds or olives without measurement and then to share the oil extracted.

26– Supposing two people have a cow as their common property; it will cause fâiz for them to share the milk on a 'one day-for each' basis.

27– Supposing two people have an ox or a horse or a car or a shop or a field or a workshop as their common property; it will entail fâiz if they agree on the understanding that each of them will use it for a certain period of time.

28– It will cause fâiz to demand that your debtor will leave you, as a rehn, a house on the understanding that you will live in it, or a field on the understanding that you will farm it, or a car on the understanding that you will use it. For, if you stipulate as a condition that you (as the creditor) will be permitted to benefit from the rahn (hypothecation, pledge) you are to keep, fâiz will be involved (in the lending. Please review the final two paragraphs in the second sub-division of the forty-fourth chapter).

29– It will entail fâiz to lend on the condition that you buy something cheaply from the lender or sell him something for a high price.

30– It will entail fâiz (for the State) to capitalize on the labour of peasantry by providing money or seeds or land for them on condition of partnership in more than half of the produce, or to commandeer their land by lending them money, to farm their land and leave them less than half of the produce. For, the amount of rent has to be known, and property that has been lent has to be returned in the same amount and kind.

31– It will entail fâiz to lend someone money on the understanding that they will work for you in return for a low payment or that they will give you a present or feast you.

32– It will also entail fâiz to cheat someone into buying something for a high price from you or into selling you something

cheaply. [Please see ghaben-i-fâhish (heavy overcharge) defined in the thirtieth chapter!]

33– It will entail fâiz to cheat by concealing the faults of something you are selling or the value of something you are to buy.

34– Tâhir-uz-Zâwî, the Grand Mufti of Libya, states as follows in his fatwâ: “The government is lending housing credit to civil servants and then deducting four percent as much again as the credit from their salaries. This four percent that the government extracts is fâiz (interest). It is harâm. It is harâm for a Muslim government to get this extra money and for the Muslims to pay it. The money should be lent for the grace of Allâhu ta’âlâ and without interest.” This fatwâ is written at the end of the April 1973 issue of **Hedy-ul-islâmî**, a periodical published in Libya. Or, a person who does not have a house to live in and who wants to make use of the housing credit should follow the procedures to fulfil the conditions and, as he is being paid the credit, should say, “I have accepted to have a house built with this money as your deputy.” And the person who pays him the money should say, “I have accepted it, too.” As he, (i.e. the person to whom the credit was given,) is being given the title deed, he should say, “I have bought this house for ... liras (pounds, dollars) in monthly instalments of ... liras (pounds, dollars).” And the person who gives him the title deed should say, “I have sold you this house.”

That it is permissible for a Muslim living in the **dâr-ul-harb**, i.e. in a country where rules of Islam are not executed, such as Italy and France, to lend money to disbelievers and receive interest from them, is written in all books, in the final parts of their chapters dealing with interest. For instance:

It is written as follows in Ibni ’Âbidîn: “In the dâr-ul-harb, it is halâl to obtain property from disbelievers by way of interest or gambling as well as by sales that are fâsid. It is not halâl for Muslims to suffer loss by one of these ways.”

It is stated in the book entitled **Multeqâ**: “Imâm A’zam (Abû Hanîfa) and Imâm Muhammad ‘rahmatullâhi ta’âlâ ’alaihimâ’ stated that in the dâr-ul-harb fâiz (interest) between a Muslim and a disbeliever will never exist.” It is stated as follows in the book **Majma’ul-anhur**: “It was stated in a hadîth-i-sherîf: ‘**In the dâr-ul-harb, there will not be fâiz** (in dealings) **between a Muslim and a disbeliever**.’ It is mubâh to take possession of their property in the dâr-ul-harb. It is permissible to take possession of their property, not by force, but by mutual consent. It is never permissible in the

other three Madhhabs, (i.e. in the Madhhabs called Hanbalî, Mâlikî, and Shâfi'î.)"

This hadîth-i-sherîf is quoted also in the book **Durar wa Ghurar**, and the following explanation is added: "In the dâr-ul-harb it is permissible for a Muslim to extract property from disbelievers or from people who became Muslims there, by way of interest or sales that are fâsid, [e.g. by sales with a premium or lottery.] For, it is permissible to take their property by their consent. Yet it is not permissible to attack their property or to exact their property by force." Sherblâlî (994 – 1069 [1658 A.D.], Egypt), as he explains this, states: "It is also permissible for him to take their property by way of gambling." So is written in the books **Qudûrî**, **Jawhara**, **Wiqâya**, **Durr-ul-mukhtar**, **Radd-ul-muhtâr**, and **Fatâwâ-i-Hindiyya**. The agreements that Muslims living in the **dâr-ul-harb** make with one another and with (those disbelievers called) dhimmîs have to be in agreement with Islamic principles.

Qâdî-Zâda (Shems-ud-dîn Ahmad Efendi), in his complementary annotation to (Ibni Humâm's) commentary (to **Hidâya**) entitled **Fet-h-ul-qadîr**, explains the hadîth-i-sherîf quoted above, and states: "Before the Hegira (Hijrat), the polytheists of Qoureish had rejoiced at the defeat that the Byzantine Sabians had suffered against the Persian unbelievers. When the Rûm Sûra was revealed and the Muslims were informed that the Persians would soon be defeated, Abû Bakr as-Siddîq made a wager with the pagan Qoureishis. The Persians were routed. Thereupon Abû Bakr as-Siddîq won the camels decided on. The wager made was (a sort of) gambling, and the city of Mekka was a town of polytheists. Rasûlullah permitted the wager to be made and the camels decided on to be taken."

As is understood from all these, in the dâr-ul-harb, e.g. in Europe or America, if a Believer deposits money in a bank that has been established by disbelievers and which takes interest only from disbelievers, it will be halâl for him to receive interest for his deposit in the bank and to spend it buying his needs. A person who deposits money in a bank has, by doing so, entered into a business based on interest in partnership with the bank. If all the people who pay interest by borrowing money from that bank are Muslims or (non-Muslims called) dhimmîs, the interest received on account of the money deposited in the bank will be harâm. If people who pay interest by borrowing money from that bank are a mixture of Muslims and (non-Muslims called) harbîs, then the money received in the name of interest or payment in return for service

from that bank will be makrûh. If the majority of the clients of the bank are Muslims and dhimmîs, then the act of makrûh will verge on a harâm; and if harbî disbelievers have a majority, the act will be closer to a halâl. In fact, a fatwâ written on the seventeen hundred and forty-fourth [1744] page of the fifty-fifth issue, dated February 29 1336, and Jumâ-dal-ukhrâ 9, 1338, of the book entitled **Jarîda-i-'ilmiyya**, published in Istanbul by Meshîhat-i-islâmiyya, translates (into English) as follows: "It is halâl according to the Islamic Sharî'at to deposit money into a bank owned by disbelievers in the dâr-ul-harb and to receive interest from them." The same rule applies to working in a bank in return for a salary.

Unless there is a (compelling situation that one cannot help and which Islam defines and calls a) darûrat, it is by no means permissible to pay interest by borrowing money from any person, any bank, or any co-operative. A darûrat is different from a necessity. A darûrat is a situation that involves hunger, thirst, or homelessness, which in turn causes illness to a person or to people whose living lies with his responsibility. When a darûrat arises, i.e. when it is feared that a person may lose his life or become ill and thereby lose one of his limbs, that person should first try to find a way that is halâl and which is clear of interest to get around the darûrat. If he cannot find a way that is halâl, then he may borrow money at an interest and satisfy his need; thereafter it will be farz for him to rid himself of (having to pay) interest by repaying his debt as soon as possible and without spending money for anything other than his basic needs. It is not a darûrat to buy a house while it is possible to rent a house. Nor is it a darûrat to find a capital for trade or art. In fact, it is harâm to lend money at an interest even if the borrower is in (desperate straits called) a darûrat. [Eshbâh]. There are scholarly reports stating that the act of harâm may be shunned by way of a technical detour termed a (sale of) 'mu'âmala (formality)' or ''iyna'. This pursuit of a method to employ to avoid failing to perform (an open Islamic commandment called) a farz or having to commit (an open Islamic prohibition called) a harâm, is termed **hîla-i-shar'iyya**.

This refined pattern is another material that some benighted people falsify in their efforts to misguide younger generations. They say, "Because Islam is against paying interest, Muslims were borrowing money with an interest from foreigners and thus passing our national wealth on to foreigners." Theirs is a monstrous lie. Muslims never borrowed money at an interest from anybody. They knew that it was a grave sin, worse than fornication to do so.

Muslims always lent money without interest to one another. Owing to this benevolence, great companies and factories were established. Not only nobody had to borrow money at an interest, but also that mal-practice would not ever occur to a Muslim.

What is a bank? Is there banking in Islam?

A bank is a company engaging in the following activities:

1– It accepts deposit at a small interest and which can be drawn on sight (demand deposit).

2– It accepts deposit at an interest bigger than that in a demand deposit and and which can only be drawn after a definite period (time deposit).

3– It accepts deposit on the understanding that its interest will be paid in monthly instalments (time deposit on the instalment plan).

4– A service provided by central banks is to issue paper currency.

5– It holds shares in factories and companies. It provides capital for them.

6– It buys and sells building-plots, orchards, and fields; it builds houses and sells them. The Islamic bank buys all kinds of property and sells them on credit.

7– Accepting valuable property, actions, [i.e. shares of stock,] and obligations, [i.e. debenture shares,] put up as collateral, and foundations laid for buildings, building-plots, and credits [prestiges] pledged as security, it lends money at an interest.

8– It pays for undue promissory notes and other negotiable paper at a discount. An Islamic bank will not do so since it is harâm.

9– Collecting the money for promissory notes from the debtors, it gives them to the creditors.

10– It rents out safety-deposit boxes to individuals so that they can keep their valuable articles.

11– It provides intercity and international money transference.

12– It pays tradesmen’s warrants of payment called bills of exchange or checks from their own accounts in the bank.

13– It facilitates transactions between tradesmen by debiting one tradesman’s debt to another from the former’s account and crediting it to the latter’s account.

14– In stock exchanges, it buys and sells stock and debenture

shares.

15– It puts debenture bonds belonging to the State and to joint stock companies into circulation.

16– It establishes factories and runs them.

17– It runs means of transportation.

Banking activities had their inception in the sixth century of the Hegira (Hijrat), in Italy, whence it spread over countries far and near. The first bank to be opened in our country (Turkey) was the Osmânli (Ottoman) Bank, in 1279 [1910 A.D.], and thenceforward a series of various foreign banks were opened at intervals of a few years, and non-Muslim citizens and foreigners interacted with them on interest. After the declaration of the constitutional government, the Turkish National Bank was established, in 1327 [1909 A.D.]; the Bank of Turkey, in 1328 [1910 A.D.]; the National Bank, the same year; the Bank of Istanbul, in 1329 [1911 A.D.]; the Emlâk (Lands) Bank of Istanbul, in 1331 [1913 A.D.]; and the Ottoman Bank of Trade, in 1332 [1914 A.D.]. As of [1329], the Zirâat Bank had a stock of 88, 577, 908 Ottoman liras, the Emniyet Sandığı (Safety Coffers) had 100, 767 liras, the Turkish National Bank had 1, 000, 000 liras.

Most of the aforesaid seventeen duties performed by banks are useful services, and they are not prohibited by Islam. Fâiz is harâm, regardless of its amount, no matter whether it is much or little. It would be wrong to say, for instance, "It is harâm when the percentage is high, but halâl when it is low." Banks that lend at a high interest to farmers, tradesmen and artisans, on the one hand, and collect money at a low interest, on the other, are organizations that exploit people and drag them towards capitalism and communism.

Another harm that banks cause is that they accustom money owners to sloth and dissipation. Lazy people who obtain much money will not work. Nor will they help people who work. Putting their money in a bank, they will lead a life of pleasure and enjoyment with the interest they get. They will pursue adventures. Workers, farmers, civil servants who have to live from hand to mouth with the money they get, and, especially, insolvent businessmen who have had to sell their house, their farm, and all their worldly goods and chattels in their desperate efforts to pay the interest that their bank has charged, will abhor these spoiled exploiters who squander money with such exorbitance and stupidity and who look down on working people. This state will

cause separation and grudge among people, dampen the enthusiasm of working people, and impair their services. The business section will droop, and unemployment and anarchism will be on the increase. Social justice will merely be paid lip-service. Economic and moral values will decline.

It is an obvious fact that an Islamic bank, which will never interact on interest, which will establish business and profit partnerships with its clients by way of mudâraba and muzâra'a,[1] which will lend to people who need money in (a manner of lending called) qardh-i-hasan and will not charge them any extra payment in the name of discount or interest, and which will charge them only for its service and expenditure, will be very useful to people. For, it is permissible for the borrower to foot the expenses of the promissory notes written and the revenue stamps bought. [Please review the initial part of the thirty-eighth chapter!] An Islamic bank will demand a kefîl (surety) as it lends money. It will determine a date of payment as it makes an agreement with the person who stands surety. In case the debtor fails to repay the debt at the determined time of payment, it will charge the surety to pay the debt. Since the people with investments in a bank of that sort will be shareholders in the profits made and the losses suffered throughout the business wherein their money is being used, they will share also the excitements experienced by the people who work in the business. They will support them. Such institutions will enjoy general popularity. The country will improve both financially and spiritually.

An Islamic bank will not lend money with an interest to people who engage in an art, in a trade, in housemaking, or to people in need. Instead, an agreement will be made with such people: Accordingly, the bank will sell them what they need on credit to be repaid in instalments. These people apply to the bank with a detailed knowledge of their need, what they need, whether it is something movable or a real estate, its genus, its amount, and its properties. The bank will buy the thing needed and entrust it to the applicant for safekeeping. Next, determining a certain amount of profit, it will make an agreement of sale on credit with the applicant, who will repay his debt to the bank in instalments stated in the agreement. If the bank makes the agreement with the applicant before it gets possession of the item needed, the bey'

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[1] Kinds of business partnership will be dealt with in the forty-fifth chapter.

(sale) will be bâtil.

[“Muhammad ’Abduh, one of the disciples of Jamâl-ad-dîn Afghânî, and also one of the outstanding members of the Egyptian masonic lodges, wrote an exegesis of the Qur’ân al-kerhim in collaboration with Shaltut (d. 1963 A.D.), director of Jâmi’ul-azhar; in that exegesis he gave a fatwâ stating that bank interest was permissible (in Islam). Later, however, the pressure on the part of religious authorities and his environment compelled him to a pretence of recantation. India also witnessed attempts of the same sort.” A person who wishes to utilize the housing credit extended on interest by the institution he works for should submit an application with this request: “I want to buy a house from you. I request that after the purchase (of the house) its price be deducted in instalments from my salary.” The institution, e.g. the Islamic bank, will sell the house it has bought or had built for a price they will agree on and on credit after he has seen the house. The instalments that were deducted from his salary before he has seen the house and the agreement has been made will be a loan that he lent to the institution. Thereafter they will be subtracted from the price (agreed on).]

WAQF — If a mosque belonging to a waqf has gone to rack and ruin and there is nobody to get it repaired, or if it is no longer used because there are no houses left or people living around it, it will still belong to the waqf, according to the Tarafeyn, (i.e. according to the ijtihad of Imâm A’zam Abû Hanîfa and that of his blessed disciple Imâm Muhammad ‘rahmatullâhi ta’âlâ ’alaihimâ’.) According to Imâm Abû Yûsuf ‘rahmatullhahi ta’âlâ ’alaih’, it will be sold with the permission of a judge of the court and the money obtained will be spent for another waqf of the same genus. Revenues [money] belonging to different waqfs, even if the waqfs have been devoted or founded by (the same) one person, cannot be spent for each other.

Immovable property such as a building, a field, a water well can be devoted as a waqf, according to a consensus (of Islamic scholars). Also, according to the Imâmeyn, [i.e. Imâm Abû Yûsuf and Imâm Muhammad ‘rahmatullâhi ta’âlâ ’alaihimâ’,] as an item of immovable property is being devoted as a waqf, something movable but requisite for it can be devoted together with it. According to Imâm Muhammad, movable things can be devoted independently as well, if it is customary to devote them as a waqf. According to this great scholar (imâm), gold and silver, [i.e.

money,] as well can be devoted as a waqf. So is the case with everything that is measured by capacity or by weight. And so also is the case with other kinds of waqf that have been customary, such as coffins, benches on which corpses are washed, covers spread on coffins, copies of the Qur'ân al-kerîm and other books. Things that are measured by capacity or by weight are sold, the money earned thereby and money that belongs to a waqf are lent to poor people and given to a tradesman as a capital in a mode of (investment termed) mudâraba (sleeping-silent-partnership); thereby the profit earned will be a shared income. The profit that falls to the share of the waqf is dispensed as alms to the poor. Equivalent of the money devoted as a waqf should always remain under the command of that waqf. It cannot be used for making a sale or repaying a debt. Wheat is devoted as a waqf on the understanding that it will be lent as a loan to villagers so that they may sow their land with it and repay their debt out of the new crop. A cow is devoted as a waqf on the understanding that its milk will be dispensed to the poor. It is not permissible to devote things like household goods as a waqf, since it is not a customary practice to devote them. Income of a waqf is spent primarily on maintenance and secondarily on the stipends of the servants and (superintendents called) nâzir.

It is stated as follows in Ibni 'Âbidîn: "Waqf means a mukallaf[1] person's devoting the benefits of a certain thing that has value and which is his/her personal proverty to all or certain poor people, Muslims and (non-Muslim citizens called) dhimmîs alike, without stipulating any conditions. According to the Imâmeyn, (i.e. Imâm Abû Yûsuf and Imâm Muhammad, two blessed mujtahids educated by Imâm A'zam Abû Hanîfa,) property that has been devoted as a waqf is no longer the devotee's property. Waqf in not an act of worship; it is an act of qurbat. (Please see the initial pages of the first fascicle, the thirty-fourth chapter of the second fascicle, the seventh and the twenty-fourth chapters of the fourth fascicle, and the seventeenth chapter of the current fascicle of **Endless Bliss**, for the difference.) Mubâhs (permitted acts) done for the purpose of earning thawâb are called (acts of) **qurbat**. It is an essential condition that it be stated that the property devoted as a waqf must be utilized only or lastly by a mosque or by poor people.

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[1] A mukallaf person is a Muslim who is free and sane and has reached the age of discretion and puberty and therefore is fully and individually subject to the commandments and prohibitions of Islam.

Depending on the general practice, rich people as well may utilize it. A person who devotes his property as a waqf cannot desist from his devotion once he has had his decision registered in the court of law or delivered his property to the trustee (of the waqf). If he has stated that after his death his property should be devoted as a waqf, he has stated, (by doing so,) that the devotion should be made out of one-third of the property he is to leave behind, in which case it will be permissible for him to desist. Maintenance of the buildings belonging to a waqf is financed with the property of their rightful free-of-charge dwellers. In case they cannot afford it, judge of the court of law will evict them, rent out the buildings, finance the repairments with the rentals, and deliver the buildings back to the rightful dwellers. If tenants cannot be found, the judge will subject the buildings to a process termed 'istibdâl'; that is, he will sell out the decrepit houses, buy new ones with the money earned, and deliver them to the trustee of the waqf. If it is impossible to buy new ones, he dispenses the money to the poor. If an apostate, (i.e. a murtadd, a person who reneged on his belief in the Islamic faith,) becomes a Muslim again, the waqf that he made as he was in the state of apostasy will be sahîh. If a Muslim turns an apostate, the waqf that he made formerly, (i.e. as he was a Muslim,) will become bâtil; it will be passed on to his inheritors. It is permissible also for dhimmîs to devote something as a waqf for poor Muslims and dhimmîs. A waqf cannot be made for a church or for poor harbîs, (i.e. for poor disbelievers living in a non-Muslim country,) not even by a dhimmî. A person (who intends) to make a waqf should find someone to act as a trustee and deliver the property to that person. A waqf has to be eternal once it has been made. Something devoted as a waqf cannot be taken back. Because it was customary among the Ottoman Turks to devote gold and silver coins as a waqf, that practice is permissible. There are quite a number of customary practices that are as authentic as the nass, (i.e. âyat-i-kerîmas and hadîth-i-sherîf with clear, definite meanings.)" As is seen, if a certain practice has not been described in the nass, a solution as to how to act must be looked up in the ijtihâds of (those authorized Islamic schollars called) mujtahids. If there are various different ijtihâds on the matter, the muftî will make a choice among them, preferring the one that will most suitably and conveniently go with the time's customary practices. It is in this sense that one must adapt oneself to the time that one lives in; not in the sense to change Islam's commandments, to cease from acts of worship, or to indulge into committing acts of

harâm, which is a falsification had recourse to by zindiqs.[1]

It is stated as follows in **Fatâwâ-i-Khayriyya**: "Superintendent of a waqf cannot be dismissed unless he commits a crime; nor can anyone in charge. It is the trustee's duty to rent out (property of) a waqf. Judge of the court of law or governor cannot interfere. If a waqf has a superintendent (nâzir) and a trustee (mutawallî), the trustee cannot do anything without the superintendent knowing about it. The Qayyim (caretaker), the mutawallî, and the nâzir (of a waqf) have equal rights. If a person turns a tent or a wagon into a mosque, and yet if that tent or wagon is moved to various places and namâz is performed in it, it will not be a mosque. A mosque cannot be displaced. It is not permissible to devote transportable property as a waqf, unless it has become a customary practice. However, a person who does so will earn thawâb. He should not be dissuaded. The devotee of a waqf, (i.e. the person who has devoted property as a waqf,) will appoint the nâzir and the mutawallî. If the nâzir and the mutawallî die before the devotee (wâqif), someone that they appoint in their last will, will take their place. In the absence of those people, the qâdî, i.e. judge of the court of law, will appoint a mutawallî. The wâqif's children and other next of kin, if they are eligible, hold the prerogative of being appointed to office. Mutawallî (trustee) of a waqf is the commander, the administrator. He signs contracts and makes sales. The kâtib (secretary) writes them and keeps a record of them. The mutawallî does not (have to) ask the kâtib about what he is going to do. Yet he lets him know what he has done. It is permissible to substitute a waqf that is too decrepit to utilize with property that will be more useful, or with gold or silver; this, however, can be done only by the qâdî (judge of the court of law). A verdict given by the hâkim-i-shar', as long as it is compatible with Islam, cannot be revoked. When there are various differing ijtihâds on a certain matter, the judge's decision will smooth away the differences."

The author of the book **Bahjat-ul-fatâwâ**, (Abdullah Rûmî 'rahmatullâhi ta'âlâ 'alaih', [d. 1156 (1743 A.D.), Kanlica, Istanbul,]) states as follows: "Supposing a waqf has a certain amount of money whose profit is to be spent for certain purposes and has partly been spent for those purposes, the remainder

[1] A person who tries to misguide Muslims by misinterpreting the Qur'ân al-kerîm, the hadîth-i-sherîfs and the Islamic teachings is called a 'zindiq'.

being in the possession of the mutawallî; that (remaining) money cannot be spent for the needs of another mosque even if it belongs to the same wâqif, (i.e. person who has devoted the money as a waqf.)"

It is stated as follows in **Fatâwâ-i-Fayziyya**: "If a living person devotes his house as a waqf on the understanding that his wife will (be allowed to) live in it and after her death the rental of the house will be dispensed to poor inhabitants of Medîna-i-munawwara, and then dies after having delivered the (ownership of the) house to the mutawallî (of the waqf) and having it inscribed in the rolls of a court of law, his inheritors cannot get that waqf revoked. If a person devotes his house as a waqf on the understanding that it will be sold and the money obtained thereby will be dispensed to the poor, a waqf of that nature is not permissible; it is bâtil. For, it is not sahîh to sell property that is a waqf. A person who says, "I have devoted my property as a waqf," may recant before having had his devotion inscribed in the rolls of a court of law. Once he has had it inscribed, he can no longer go back on it. If a person devotes someone's debt to him as a waqf to be used for a certain purpose, [i.e. at a certain place,] and then dies before having received the money (that that person owes to him), his inheritors may have that waqf annulled. If a person devotes his house as a waqf on the understanding that the house will be rented out and money obtained thereby will be given only to, say, Ahmad, one of his sons, nothing will be given to his other sons. Supposing a person who is the mutawallî of a certain amount of money devoted as a waqf invests the money in silent (sleeping) partnerships by giving it as a capital to tradesmen or artisans and for a few years gets only the profit of the money and meets with it the expenditures of the waqf and thereafter he is substituted by another mutawallî, and supposing thereafter the tradesmen go bankrupt or abscond with the money; the new mutawallî cannot have his predecessor pay an indemnity for the capital lost. If the mutawallî of waqf money lends the money to tradesmen as a formality loan and thereafter he is dismissed from office, the tradesmen will have to return the money in case the new mutawallî demands it. Supposing an amount of money is devoted as a waqf on the understanding that it will be lent as a formality loan on the condition that a rahn (security) will be taken and kept, and yet the mutawallî of the money lends it without security and thereafter the borrower goes bankrupt and dies and consequently the money is not returned; in that case the mutawallî will have to pay for it.

Likewise, if a wakîl (deputy, proxy) causes loss because he has not observed the conditions stipulated by his principal, he will have to indemnify for the loss. The mutawallî, according to Imâm Abû Yûsuf 'rahmatullâhi ta'âlâ 'alaih', is the wakîl (deputy) of the principal of the waqf, (i.e. person who has devoted the property as a waqf.) According to Imâm Muhammad 'rahmatullâhi ta'âlâ 'alaih', on the other hand, he is the wakîl of the poor. If an amount of money that has been devoted as a waqf without stipulating the condition that it should be kept at a certain place perishes in a fire as it is being kept in the mutawallî's house, the mutawallî will not have to pay for it. As the mutawallî of a shop that is a waqf rents it out for its (normal current price termed) ejr-i-mithl, if he charges the tenant an extra payment in the name of jâiza, i.e. goodwill money, the tenant is entitled to get that money back. If waqf money is extorted from the mutawallî by brigands, the mutawallî will not (have to) compensate for it. The same rule applies with property given into safekeeping and termed vedî'a. If the mutawallî appoints someone his deputy to collect the rental of a waqf and the deputy collects the money and spends it for his personal needs, the indemnity will devolve not on the mutawallî, but on that deputy. The qâdî, (i.e. judge of a court of law,) cannot introduce a duty that has not been stipulated as a condition for a waqf. For instance, if there already is a muazzin serving in a mosque that is a waqf, he cannot award another diploma for a second muazzin. If (a person named, say,) Zayd serves as a mutawallî for a certain waqf for a few years, it will be permissible when the qâdî checks the accounts of those years, accepts them, and endorses them. Anyone who entertains doubts may demand an explanation. The nâzir (superintendent) of a waqf cannot take on also the duty of a mutawallî (trustee). A mutawallî appointed by the principal of the waqf manages the waqf under the knowledge of the nâzir."

It is stated as follows in **Ibni 'Âbidîn**: "There is a widely known saying that goes, 'The shart-i-wâqif is identical with the nass-i-shâri' '. It means: The qâdî cannot issue a judgment counter to the conditions stipulated by the wâqif; everyone has to observe those conditions. There are seven exceptional conditions. The qâdî may change those seven conditions. For instance, it is wâjib for the qâdî to dismiss a treacherous mutawallî or nâzir."

A passage translated from the book **Durr-us-suqûq**: "At the Mejlis-i-shar'i sherîf (Blessed Council of Islamic Matters) convened in Selânik (Thessalonike) 'Abd-ur-Rahmân Begh

devotes five hundred qurushes (Ottoman piastres)[1] as a waqf and delivers the money to Muhammad Agha, who he has appointed as the mutawallî; on the understanding that the money waqfed will be augmented at a rate of eleven and a half –for– ten yearly increase by being lent by way of a formality loan by the mutawallî appointed; of the resultant annual income, a water distributor will be employed on a payment of fifteen aqchas daily, and the distributor employed will dispense water gratis; two aqchas will be spent daily for the maintenance of watercourses; the mutawallî will be paid two aqchas daily; Mustafa Efendi, the Muftî of Selânik, and at the same time the appointed nâzir (superintendent) of the waqf, will be paid one aqcha daily; a bookkeeper will be employed and paid one aqcha daily for an accurate record of incoming and outgoing money, the process of which will be subject to an annual check of accounts. In the event of death of Muhammad Agha, management of the waqf will pass on to a new mutawallî, who in turn will be chosen by the muftîs of Selânik from among pious, sâlih, and competent candidates. Should it be seen, years later, that these conditions can no longer be observed, all the money of waqf will be distributed to the poor. When Muhammad Agha, the appointed mutawallî, accepts the duty and is delivered the five hundred qurushes waqfed, principal of the waqf raises an objection on the grounds that money-waqfing is not permissible according to three imâms (mujtahids), and proposes that the waqf be overruled. Thereupon the mutawallî declines to return the money with the antithesis that money-waqfing will be permissible, according to Imâm Muhammad and Imâm Zufer, in places where it has been practised customarily. The qâdî decides that the waqfing performed is sound, and gives it the go-ahead. So the performance of waqf is sahîh (valid, sound) by the decision of the court of law.

"In Kermir, a village under the city of Kayseri; Alexan, a Byzantine subject of the Devlet-i-aliyya (Ottoman Empire) and a tradesmen, states as follows in the presence of the Mejlîs-i-shar'i sherîf: 'Ahmad Efendi, the appointed mutawallî of the waqf established by the late treasurer 'Alî Agha of Kayserî, lent me five thousand kurushes of that money waqfed; I have used the money that I borrowed. That sum of five thousand qurushes, with the addition of seven hundred and fifty qurushes, which is the themen

[1] Ottoman monetary coin, worth a hundred and twenty aqchas, which in turn was the basic monetary unit.

(price) of a pocket watch that I have bought on credit to be paid for a year later, fifty-seven hundred and fifty [5750] qurushes in all, is my debt to Ahmad Efendi on behalf of the waqf.' Thereupon Ahmad Efendi and the witnesses whose names are written below attest to the truth of his statements, and the persons who act as sureties provide a guarantee with their own property and acknowledge that they stand surety for each other as well. Thereat it has been endorsed and inscribed in the rolls of the court of law."

As will be concluded from what has so far been written about 'waqf', instead of harmful banks that feed on interest, it is quite possible to establish (trust-like institutions called) 'waqfs' (and) which can be realized by devotion of money or other property. Doing so will not only provide protection against religious and worldly losses but also give various benefits to the people as well as to the State.

From time to time banks distribute millions of liras in the name of lottery. Drawing lots on behalf of the people who have money in the bank, they give the money to the owners of the prize-winning numbers. On the other hand, as we have explained in the thirty-seventh chapter, it is permissible to lend with a fifteen percent maximum interest annually by way of a formality transaction. For that matter, if banks, instead of paying interest and distributing prizes, used their money in a safer way by buying something cheap for a high price from those who put their money in the bank and thereby paying them the price of the property instead of the interest for the money they borrowed, and by selling something cheap, e.g. a receipt, for a high price to people who borrow money from the bank and thereby charging them the price of that property instead of the interest for the money they lent, thus paying or charging the price for the property they bought or sold instead of the interest for the money they borrowed or lent, they would protect both themselves and the people against the sin of interest and gambling.

If people being employed in commercial businesses, especially in industry, are taken into full partnership in the tremendous capital investments being made, e.g. those made for the means of transportation, in their own company or elsewhere, whereby they will have a share from the profits made, everyone will put their money in those businesses. Banks will no longer be able to receive money with an interest. They will no longer be able to exploit the people. They will be compelled to work in a manner prescribed by

Islam. It is something quite possible, and very easy, too, to improve a bank, which has been established for the interest of a few people and has therefore been dragging the village life towards sloth, irremediable debts, and disasters, into an altogether fruitful and prolific Islamic bank, which will work in a manner compatiible with the commandments of Allâhu ta'âlâ, make partnerships with tradesmen, artisans, and factories by providing capital for them, and make and sell buildings, complexes, and plants. It is an incontrovertible fact that banks employed in that manner will be of great service for peoples' welfare, happiness, and progress.

Question: A person who has no or insufficient money to have a house built borrows money with an interest from a bank and has a house built. He has a home now. However, it is very difficult to pay the interest. If he fails to pay it, his debt increases, his house is sold, all his toil comes to naught, and he cannot get over his difficult living conditions. How can an Islamic bank solve this problem effectively?

Answer: The Islamic bank will not lend him money with an interest. Instead, learning from him all the features of the house he wishes to have, employing civil engineers and masterworkmen of its own, and using the best material, it will have a house built, which will be better than one he could ever build on his own and will meet all his domestic needs. Thereafter the bank will sell him the house on credit for a price that will consist of both the cost and the profit that the bank plans to make. Thereby, not only will that person attain ownership of a good house without any toil on his part, but also the bank will have helped someone without any interest, the profit it will have made into the bargain.

Question: It is permissible to put money in a bank and receive interest in (a country termed) the dâr-ul-harb, i.e. a country, e.g. France, where idolatry is rife. On the other hand, it is harâm, always and everywhere, to borrow money from a bank and pay interest to that bank, unless there is a (helpless situation termed) darûrat. Consequently, as disbelievers are transacting great businesses by drawing hundreds of thousands of liras from banks, Muslim tradesmen are suffering deprivation because they cannot drum up any business since they cannot draw any money from banks. This handicap delivers trade into the hands of disbelievers, making the Muslim tradesmen a plaything in their hands?

Answer: The Muslim tradesman will borrow money in a way

called qardh-i-hasan[1] from rich Muslims, and thereby he will avoid paying an interest of hundreds of liras to a bank. In addition, the lenders will earn plenty of thawâb. Unless a tradesman adapts himself to Islam, he can not win others' confidence. He can not borrow anything from anybody. A tradesman who cannot borrow money should issue shares and make Muslims shareholders in his company. Wealthy people who wish to join the company will provide plenty of money for the tradesman. Since banks offer very low interest, those people will invest their money in trade. Thus trade and art will improve in the country, and the counry in turn will make progress. Moreover, banks will no longer be able to rob the well-to-do people or batten on others. The country will attain welfare.

Question: Wealthy people do not establish partnerships with tradesmen or artisans. They prefer to lend their money with an interest to them. Could you suggest a solution?

Answer: The Islamic religion prescribes solutions for anything. It is very easy to observe the Islamic principles in every business. To do so, all one will have to do is learn the Islamic (science termed) Fiqh or find someone learned in the so-called branch and ask him. (For instance,) the wealthy person buys, for himself, the tools and machines that the artisan or tradesman needs. Then he sells them on credit to that person for a price agreed on by both parties. An instalment plan is made and promissory notes are written. Thus the artisan's or tradesman's monetary problem has been sold without interest, the wealthy person has earned much more than he would have by way of interest from a bank, and a bank has not interfered between them.

Question: Iron tools, machinery, and things of that sort needed by artisans are not sold to wealthy people. They are sold only to artisans. What can be done to solve this problem?

Answer: The Islamic religion makes all difficult things easy. No problem is insoluble in Islam. The scholars of Ahl as-Sunna(t) delved deeply into the Qur'ân an-kerîm and hadîth-i-sherîfs, gleaned the minutest pieces of knowledge teaching the best ways of doing everything new and using every novelty and every new discovery for the benefit of humanity till Doomsday, and wrote them in their books. They left no work for those religiously

[1] Please see the initial part of the thirty-seventh chapter for '**qardh-i-hasan**'.

ignorant thieves of faith and zealots who think of and pass themselves as mujtahids and attempt to compete with the exalted scholars of Islam. What devolves on Muslims is not to attempt reforms or invent novelties in Islam, but to try to learn Islam by reading books written by the scholars of Islam and to adapt their practices to those authentic teachings. Thereby their efforts will be a jihâd against their nafs. This is the sole true way to be recomended for people who wish to be safe against perdition and eternal torment, which in turn is dependent solely upon obeying the Qur'ân al-kerîm and Islam. People who attempt to interpret the Qur'ân al-kerîm and hadîth-i-sherîfs with their limited mental abilities and to deduce rules with their short-ranged understandings will go wrong, deviate, and wander away from the (only true path guided by the scholars of) Ahl as-Sunnat. And once a person has wandered away from the path of Ahl as-Sunnat he will end up either in misbelief or in unbelief.

A wealthy person who cannot buy something for himself appoints an artisan, for whom he plans to provide capital, as his deputy and says to him, "I have made you my deputy to buy such and such property with this money." Thereupon the artisan accepts to be the wealthy person's deputy and takes the money from the wealthy person by giving him a receipt in return. With the money he has been given he buys the property designated, gives it to the wealthy person, and takes his receipt back. A new agreement being made between them, this time the artisan buys that property, (which may have been machinery or something else of that sort, depending on the artisan's need,) on credit and for a high price from the wealthy person. By way of this (formality transaction called) mu'âmala both of them both avoid committing the sin of fâiz (interest) and earn much more.

Question: Banks borrow the money hoarded by well-to-do misers and lend it to businessmen. Thus they contribute to national progress. If Muslims avoid transacting with banks, they will cause banks to close down, which in turn means thousands of unemployed people who have lost their jobs in banks. How can this loss be anticipated?

Answer: The rich person puts his money in a bank for the sake of an insignificant amount of interest. He will earn much more when he gives it to a businessman. He will certainly prefer this. A bank will no longer be able to go between them and batten on the businessman. Having been weaned from an annual income of millions of liras that they have been sucking out of the pockets of

businessmen, banks will accelerate their useful services that we explained earlier in the text. They will add more weight on their earnings without interest. They will both earn more and contribute more to national growth. They will pay the wages of their employees out of their halâl earnings.

45 – COMPANIES

It is stated as follows in **Ibni 'Âbidîn** and also in 'Âtif Begh's commentaries to the 1045th. and the 1060th. and the 1326th. and later articles of the book **Majalla**:

'Company' means 'partnership'. In Islam there are two kinds of company:

1– **Company** (joint ownership) **of property**: It is a company wherein two or more people co-own some property that is an 'ayn or a deyn by way of inheritance or gift-making or by way of purchase made on the basis of a certain proportion in respect of payment. Or they may have formed the co-ownership by commingling their shares of property into an inseparable single unit. In the former case, they co-own each and every particle and every grain of the commonly owned property. In the second, the motes of each of them have been mingled with the motes of the other. In the former case each shareholder may sell his hissa-i-shâyi'a to anyone at will. In the second, a shareholder's hissa-i-shâyi'a can be sold only to (one of) the other shareholders, which again, is subject to the choice of the owner of the hissa-i-shâyi'a, and dependent upon the permission of the other shareholders. A shareholder may make use of the commonly owned building or land in proportion with the share he holds and on the condition that the other shareholders will not be given harm. Yet he cannot let others utilize his share without permission (of the other shareholders). He may use others' shares as well, with their permission. Of the mithlî property, he may separate the item that falls to his share and use it, provided it should be done in such a manner as will not cause fâiz (interest). He may consume his share of the fruit. He may sell the perishable items and distribute the themen (price) to the shareholders. He may sell his share to anyone without (the others') permission. He cannot be forced to buy a share or to sell his share (to anyone, shareholders or others alike). An instance of co-ownership of property manifests itself in the shares of meat that a certain number of people have of a bovine animal that they have bought and slaughtered as a common

qurbân. Please review the final part of the thirty-sixth chapter!

The celebrated book **Majalla** provides detailed information on the kinds of co-ownership of property, on duyûn-i-mushterekiyya, on sharing commonly owned property, on sharing benefits, on common rights of apartment building dwellers, from its thousand and forty-fifth [1045] chapter onwards.

2– **Company Established by way of Agreement**: It is established by way of a written agreement and made and accepted by the shareholders. Withdrawal of any one of the shareholders will dissolve the company. To stipulate that one of the shareholders should be given a certain amount of the profit will dissolve the company. When the capital is a kind of property, the capital has to be gold or silver or any kind of currency, and it has to be existent and known. A deyn, [i.e. a due,] or urûz, i.e. things that are measured by capacity or by weight or by number, cannot be capital. When one of these things or a building has already been owned in common, it can serve as capital according to Imâm Muhammad 'rahmatullâhi ta'âlâ 'alaih'. In the case of property with not an already shared ownership, the shareholders transact a mutual sale between themselves, whereby they sell each other half of their property equal in value. A company established on the condition that one person will sell his property in another's shop, will be fâsid. It is essential that the profit belong to the seller and the shop owner be paid.

Seven kinds of companies are established by agreement:

A) **Company of mufâwada, or musâwât** (unlimited partnership): The right to use the entire property of the company, equality of the shares in the capital put up and of the profits obtained by all the shareholders, and all the shareholders' being Muslims, are essential conditions to be fulfilled for the establishment of this company. Another condition is that each and every shareholder should have no money other than that which he has invested as capital. In the absence of any one of these four conditions, the company turns into the second kind of company, i.e. **company of 'inân**. Each of the shareholders is both kafîl (surety) and the wakîl (deputy, proxy) for another. The shareholders are responsible for all the debts and undertakings of the company, jointly and with their entire property. For instance, if one of the shareholders buys something, the seller may demand the money from the other shareholders. According to Imâm Abû Yûsuf 'rahmatullâhi ta'âlâ 'alaih', a dhimmî [non-Muslim] also

may be a shareholder. It is obligatory to write the word **mufâwada** and a list of all the conditions in the regulation of the company. It is not obligatory to submit the monetary worths of the shares to the company or to mix them together.

Companies of mufâwada (unlimited parnerships), those of 'inân (special [limited] partnerships), and those of mudâraba (silent, sleeping, or dormant, partnerships) are established with gold and/or silver coins, or with gold or silver articles at places where these articles are acceptable as currency, or, [according to Imâm Muhammad,] with any kind of currency, [such as paper lira bills,] or it can be established after mixing together equal shares of property made up of items measured by weight or by capacity or by number. When any part of the property (of the company) is sold, the money received and the profit earned will belong to the shareholders in equal amounts. Europeans adopted the 'company of mufâwada' from Muslims, and called it 'unlimited liability company'.

B) **Company of 'inân** (special, or limited, partnership): It is a company where shareholders are wakîls (deputies), but not kafîls (sureties) for one another. It may be stipulated as a self-standing condition that they will also stand sureties for one another. Equality of the shares of capital is not an essential condition. The company will be fâsid if it is not stated how the profit will be shared. The company will carry on one or various kinds of trade. The rate of profits will be determined not by the rate of shares but by the contract. If some of the shareholders work for the company, they will be paid additionally for their work. If it is stipulated as a condition that all or some of the shareholders will work for the company: "It is permissible to pay more profit to some of them although their shares and work may be equal, or to the ones who work, when some of them work, or to divide the profit on equal terms, when the ones with smaller shares work. It is not permissible to stipulate that the share holders with greater shares should work, and the profit will be divided in proportion to the shares. It is not permissible to pay more profit, so as to adjust the rate of profit to that of shares, to the shareholders who do not work for the company or who contribute little to the work." To undertake something that involves time consumption, such as the customer services, means to contribute to the work. Therefore, a shopowner or a masterworkman will be given a share from the wage given to his assistant.

If it has not been stipulated that the shareholders should work in the company, their work will be of their own volition. (In that

case) the shareholders who do not work will also be allowed a high rate of profit; (and) it will be permissible to stipulate that only the shareholders with greater shares in the company will be given duties in the company. Supposing a person has capital and starts a business with this money, adding to it someone else's investment that is twice the amount of his money; in that case it will be permissible for him to get one-third of the profit, giving the remaining two-thirds to that person. Where working (for the company) is a stipulated condition, it is not permissible to allot three-fourths of the profit to the shareholder who has provided capital. Here also, it is not an essential condition to commingle the shares making up the capital. Because shareholders are not sureties for one another, a debt to a creditor outside of the commany will be paid only by the purchaser; and because they are deputies of one another, that person will pay it out of the property of the company. Losses and accidents will be compensated always in proportion to the shares making up the capital. In the companies A and B the shareholders have certain rights, such as providing capital for outsiders; joining them by investing as a silent (sleeping) partner; entrusting to them something for safekeeping (amânat); employing men, etc. with payment; and appointing a deputy. Lending and gift-making, however, are not within their initiatives. Since the property of the company is an amânat (trust) in the hands of the shareholders, if it perishes in the hands of (any one of) them, they will not have to compensate for it.

C) **Shirkat-i-a'mâl** (Partnership of Joint-Labour), or **Shirkat Sanâyi'** (Industrial Partnership): In this kind of partnership two or more artisans undertake a business commissioned by someone else, or establish a factory, and share the payment, or the profit that their production will yield, among themselves. Whereas labour and workmanship are equal the shares of profit may differ. Each and every shareholder is accredited to take an order to be handed down to the company. Each and every shareholder may accept an order or make a sale. Every shareholder has a share in the earning and loss of every other shareholder in a ratio stated in the agreement. An industrial partnership (shirkat sanâyi') may be in the form of a company of muwâfada, as well as in that of a company of 'inân. When in the form of 'inân, the profit may not be divided in a manner proportionate to the work done for the company. A partnership based on the understanding that the shop will be provided by one partner and the tools and implements by the other, will be sahîh. It is sahîh for porters to establish a partnership.

D) **Company of wujûh, or i’tibâr (credit)**: It does not have capital; it is a company based on the credibility and reliability of the partners among people and established so as to buy things on credit and sell them. The profit will be divided and distributed in proportion to the ratio of compensation decided upon in case of perishment of the common property or the damages suffered. In a (parnership of) mufâwada this ratio will be fifty to fifty and the partners will also stand surety for each other. If it is not meant to be a mufâwada, the ratio in dividing the profit will be the same as the ratio in the compensation for the property bought in a partnership of ’inân. In a partnership of ’inân the profit would be divided differently from that ratio as well. Here, however, the ratio applied in dividing the profit cannot be different from that which is to be applied in the compensation.

Companies that are not permissible, [i.e. those which are fâsid]: It is not sahîh to establish a partnership in activities in which it is not permissible to appoint a deputy; such as gathering firewood or grass, hunting for food, distributing water, picking and collecting fruit from ownerless mountain trees, mining for salt or metals from land free for the public, baking bricks or tiles made from clay obtained from such land, and other activities of that sort that are ‘mubâh’. Whatsoever each person obtains as a result of such activities will be his personal property. Should someone help him he will pay him (for his labour); and the payment cannot be more than half the themen for the amount obtained. For, in a partnership the partners will be deputies of one another. To appoint a deputy means to let someone exercise the right to use something which is normally not within his power of disposal. It will not be sahîh, therefore, to appoint a deputy to place at his disposal the right to use something that is already free, i.e. mubâh, for everybody. In partnerships that are fâsid, the shares of profit will be in direct ratio to the shares of capital. The partnership will dissolve by an annulment on the part of partners.

E) **Company of mudâraba (Sleeping-silent-dormant partnerships)**: The lexical meaning of ‘mudâraba’ is ‘walk(ing) on the earth’. A company of mudâraba is established on the understanding that some of the partners will provide the capital and the others will take part in the work. The partners who do the actual work are termed ‘mudârib’. The profit will be shared in the ratio agreed upon during the agreement. The capital is an ‘amânat’ entrusted for safekeeping to the partners who do the actual work. They will not (have to) pay for it if it perishes. They are to be

believed when they take an oath on that it has perished. The sleeping partners, who have provided the capital, cannot take part in the work. The capital has to be gold or silver or other currency. When a person gives ’urûz (any sort of living or lifeless property, with the exception of gold and silver) to someone else and tells him to sell it and do trade with the money he will get, and if the latter person sells it and makes capital of the money he has gotten, they have established a partnership of mudâraba. It would (also) be sahîh if he said, for instance, “Get such and such (amount of) money from so and so, who owes me that money, and use it by way of a mudâraba.”

Ibni ’Âbidîn, in his discourse on (the company of) ’inân, quotes Imâm Zeyla’î as having stated as follows: “If the owner of the capital wishes that his money be repaid by the partner doing the work, he lends him a major part of his money. Then, giving him a small amount of money, he establishes a partnership of ’inân with him without work (on the part of the debtor) being stipulated as a condition. But the owner of the money does not join the work. If they make profit, they share it agreeably with the contract they made. If the capital perishes, the partner doing the work pays for it.” In this example, work is not a condition stipulated, the debtor works without it having been stipulated as a condition (that he should work), and the owner of the money gets more than half of the profit and also recovers the money he lent. Ibni ’Âbidîn states as follows in the final part of ‘Companies’: If a person gives a thousand gold coins to another person and says to him that he gives him half of the coins as a loan and the remaining half as capital for the establishment of a partnership of mudâraba, and offers that they go halves with the profit, or if he says, “I have lent half of them as a loan to you. Let us establish a partnership on a fifty-fifty basis,” it will be permissible. If it should be stipulated that all the profit will be given to the partners who do the actual work the capital will have been lent as a loan to them. If it should be stipulated that the profit will be given to the investors, the partners who do the actual work will be a deputy without a payment. If a (partnership of) mudâraba becomes fâsid, the partner who does the actual work will be a worker earning a wage. All the profit will belong to the owner of the capital. The owner of the capital will pay the working partner a wage equivalent to the wages paid in similar cases. In a mudâraba, the money has to be delivered to the working partner(s), and the ratios of shares from the profit have to be determined during the agreement. If a certain amount of the

profit is stipulated in favour of one of the parties, the agreement will become null and void. A stipulation that any damage or loss should be inflicted on the working partners, is null and void in essence, yet it will not nullify the partnership. Loss belongs to the owner(s) of the capital. If no condition has been stipulated in terms of period of time and place, the partners doing the actual work will (be allowed to) use the property in buying and selling, appoint a deputy, set off for a (long-distance journey termed) safar, entrust the property to others for safekeeping, deposit it as security, and rent it out. For, there is profit in these transactions. Yet when it comes to such transactions as borrowing and lending, almsgiving, giftmaking, consent on the part of the owners of the capital will be required. When the owners of the capital stipulate that the trade should be carried on in a certan city and/or on a certain commodity and/or in a certain time and/or with certain tradesmen, the partners responsible for the work will have to observe the condition(s) stipulated. If they do not observe them, they will have to pay for any loss suffered. Any profit they make that wise will be their own. If the partners responsible for the actual work suffer loss, they will not have to pay for it. The partners doing the work cannot run up personal expenses from the capital. If they go on a long-distance journey, (i.e. safar,) expenses for eating and drinking and travel funds placed (out of the capital) at their disposal should not exceed the customary limits. If a person responsible for the actual work spends the money he gets (out of the capital) meeting his personal needs instead of spending it for business, he will be made to compensate for it, provided that his misconduct will be attested to by two 'âdil[1] witnesses. The owner of the capital money may dismiss the working partner at will.

F) **Company of muzâra'a (share cropping)**: It is a partnership established on agricultural produces and between two people on the understanding that one of them will provide the land and the other one will undertake the work and the produce will be shared in a ratio agreed on. An agricultural partnership, according to (the common ijtihâd of) Imâm Abû Yûsuf and Imâm Muhammad 'rahimahum-Allâhu ta'âlâ', is established in case of satisfaction of the following fourteen conditions:

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[1] Please see the tenth chapter of the fourth fascicle of **Endless Bliss** for **'âdil**, and the fifteenth chapter of the same fascicle for **safar**. The word 'âdil is defined in a footnote on the hundred and seventy-fifth page of the thirteenth edition of the same fascicle.

1– The land should be arable.

2– People to establish the partnership should be discreet and pubescent Muslims. According to Imâm A’zam (Abû Hanîfa) ‘rahmatullâhi ta’âlâ ’alaih’, it is not necessary for them to have reached the age of puberty.

3– Lifespan of the paratnership should be determined (beforehand).

4– It should be made known who will provide the seed.

5– The genus of the seed should be known.

6– Percentage of the produce that will fall to the share of the partner who has not undertaken to produce the seed should be known.

7– None of the partners shall be allotted a specified section of the produce or crops from a certain part of the land.

8– Owner of the land shall place the land to the disposal of his partner.

9– The produce shall be divided and distributed without an amount as the (next year’s) seed having been set apart. It is permissible to stipulate that ’ushr[1] for the produce will be set apart before.

10– The grain of the produce shall be shared out, and the chaff shall be either shared out or given to the partner who has provided the seed.

11– Expenses made for carrying the crop from the field, for reaping, for threshing and winnowing will be set apart before. It is permissible as well that they devolve on the partner doing the work.

12– Expenses gone into before the crop is reaped devolve on the partner doing the work.

13– It will be permissible if:

a) the seed should be provided by the landowner and the bullocks or the machinery by the working partner;

b) the seed and the bullocks or the machinery by the working partner;

c) the seed and the bullocks or the machinery by the landowner.

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[1] Please review the first chapter for ZAKÂT OF CROPS.

14– It will not be permissible if:

a) the bullocks or the machinery should be provided by the landowner and the seed by the working partner;

b) the landowner should work, the bullocks and seed being provided by the other partner;

c) the work and the bullocks should be provided by the landowner and only the seed by the other partner.

Conditions other than the aforesaid ones will dissolve the partnership, in which case all the produce will belong to the owner of the seed, and the partner will be paid a wage. The wage, however, cannot exceed the amount of his share determined in the agreement.

If the owner of land that has been let out (to a share-cropper) in a partnership of muzâra'a sells that land, the buyer will have to wait untill the land is free. Or, he may have the sale cancelled by way of a lawsuit.

G) **Company of musâqât**: It is a contract made and signed by the owner of a vineyard or an orchard or a vegetable garden and a share-cropper on the understanding that the latter will water and tend the grape vines or fruit trees or vegetables in the former's land; it is like a company of muzâra'a. If the share-cropper becomes ill the contract will become void. A partnership is not established for planting and growing trees. Should one be established, the trees grown will belong to the landowner, and he will pay the person who has done the work for his labour.

Such a fire is love that when it blazes up,
It burns all except the beloved one.

With the sword of 'lâ' kill all except Haqq;
Lo, what remains when you've said, 'lâ'!

There remains 'il-l-Allah' only, as you'll behold;
Rejoice! Partners have all burned away!

46 – RENTALS and WAGES

'Ijâra' means to sell the benefit, the use of an item of property, and not the property itself; it means to rent. It is done by way of offer (îjâb) and acceptance (qabûl). The themen of this sale is termed '**rental**' or '**wage**'. The owner of the property is called '**âjir**' or '**mûjir**' (rentor), the tenant or the employer, i.e. the person who makes the payment, is called '**muste'jir**' (employer), and a person who rents out his energy or artisanship is called '**ejîr**' (laborer). Muste'jir is a person who makes use of rentor's property or the laborer's energy and makes a payment in return.

As is stated in the books **Durr-ul-mukhtâr** and **Radd-ul-muhtâr**, an item of property is rented out so as to be used for a purpose justified by Islam and within reason. It will be fâsid to rent fabrics, household goods and kitchen utensils in order to keep them for ostentation, to rent a house for ostentation to others instead of living in it, or to hire a servant or to rent such things as gold and silver articles or cars not for utilitarian but pretentious purposes. Things of this sort do not deserve a payment. For, the items we have been exemplifying have not been rented out so that they would be used for practical purposes. A purposeless usage of them, on the other hand, (practical as it may have been,) would not necessitate a rental. It is not permissible to rent out a flower or anything odorous so that its odour will be enjoyed, or a book so that it will be read. When something is lent as an 'âriyat (for temporary use), a verbal designation as to the period (allowed for usage) and payment will turn the interaction into a rental. On the other hand, a rental agreed on without a word concerning payment will not turn into an 'âriyat. It will be an ijâra (rental) that is fâsid. (Please review the thirty-first [31] chapter for transactions that are **sahîh**, **bâtil**, **fâsid**, and **makrûh**.)

For a rental (ijâra) to be sahîh, it is necessary to state the payment and the (type of) usage. The usage of a place or a piece of land will have been stated when the period of time (within which it is to be used) is stated. With artisans, the benefit to be made, (i.e. the usage,) will have been designated when the period and the kind of work are stated together, and with means of transportation, it will suffice to state any one of these two. Land belonging to an orphan or to a waqf or to the Beyt-ul-mâl cannot be rented out for a period of more than three years; with a house or a shop, however, the limit is one year maximum. Should it be necessary for the time limit to be longer, the Hanbalî Madhhab

must be imitated. In that case, however, all the other rental principles taught by the Hanbalî Madhhab will have to be observed. It is not permissible to rent out things perishable during the rental period or which will be worn out and perish as a result of usage. For instance, money should not be rented out, since it will disappear during usage. It is not permissible, and so it is fâsid, to rent out an animal for its milk, a tree or a vine for its fruit, a field for grazing animals, or an animal for its wool. Gold and/or silver articles of ornamentation may be rented out for usage as ornamentation, and clothes and fabrics may be rented out to be worn. Women may ornament themselves only for their husbands.

It is stated in **Fatâwâ-i-Fayziyya**: “Like in a transaction of bey’ (sale), an unnecessary condition stipulated in an ijâra (rental) will make the interaction fâsid. Supposing you are bargaining on a cargo with a certain value to be shipped to a certain port for a certain price; it would make the agreement fâsid to stipulate that the owner of the ship should pay the tariff for the cargo out of his own property. In rentals that have become fâsid, not the price agreed on, but an ejr-i-mithl (or ajr-i-mithl) will be paid. Like in a bey’, it is permissible to withdraw from a rental or to cancel it.”

It is makrûh for a Muslim [in the Dâr-ul-islâm] to serve a disbeliever for a wage. It is stated in the two hundred and fifty-first page of the fifth volume of Ibni ’Âbidîn: “It is permissible according to Imâm A’zam (Abû Hanîfa) to carry wine for a disbeliever or repair a church in return for a payment or to sell a symbol of disbelief such as a (rope girdle worn by Christans and called) zunnâr to a disbeliever. Yet it is makrûh to make a pair of (special indoor shoes called) mests (and) worn by magians or to sew a garment worn by fâsiq people for a Muslim. For, it would mean to cause a Muslim to be like a magian or a fâsiq person.” (The term ‘fâsiq’ is defined at various occasions in the current book. Please also see the tenth chapter of the fourth fascicle of **Endless Bliss**.) It is permissible to hire a disbeliever wet-nurse for a Muslim child or a Muslim wet-nurse for a disbeliever’s child. [Hence, it is permissible to give blood to a Muslim to save his life, and blood from disbelievers will make no difference.] It is permissible to rent out a benefit in return for another kind of benefit. For instance, it is permissible to rent out a piece of arable land as a rental for a house. However, it will not be permissible to rent out a garment and receive another garment as a rental. It is not permissible to rent out a place on the understanding that prayers of namâz will be performed there; the rental received

thereby will be harâm. A place of that sort must be rent out for business, and prayers of namâz must be performed there.

Tahtâwî 'rahmatullâhi ta'âlâ 'alaih' states as follows in the final section of his annotation to **Durr-ul-mukhtâr**: "Property that oppressive rulers exact in the name of 'ushr[1] will by no means be 'ushr only because it is called so. This practice on their part means to get their jâmakiyya from the Divân, i.e. to appropriate the wages and stipends of the civil servants from the people, although it devolves on the State to provide those wages and stipends, (and although they are the rights of people who serve the people.) What they get thereby they have to dispense to the civil servants. So is the case with the taxes they extract from tradesmen."

To commission an artisan to make something for you by using the material you give him means to hire that artisan. The payment may be a deyn as well as an 'ayn. The rule that a condition stipulated will make a bey' (sale) fâsid applies also in the case of an ijâra (renting, hiring). The author 'rahmatullâhi ta'âlâ 'alaih' of the book **Majmû'a-i-jedîda** states as follows: "Supposing the tenant of a shop belonging to a waqf is transferring the shop to someone else with the permission of the mutawallî,[2] (which is a interaction called 'ferâgh',) the ferâgh will not be permissible if he, (i.e. the new tenant,) stipulates that he will not be evicted till his death. The shop may be taken back." This interaction as well, (i.e. ijâra,) is susceptible of three kinds of option (being mukhayyer): An ijâra also may be recalled (iqâla). A payment is not necessary when the agreement is made. In other words, the renter (âjir) will not necessarily be possessed of the payment. However, if the tenant makes a ready payment of his own volition or a ready payment is stipulated before both parties leave the place of bargain although it has not been stipulated during the bargain, the payment will be the mûjir's property. (Mûjir means 'person who hires out.) The renter will not have to deliver the property (rented out) before the tenant pays the rental. If the tenant will not pay the rental (although he has taken possession of the property), the renter may have the tenant sent to prison. He may cancel the agreement. Yet he cannot sell the property before he gets it back. A ready payment stipulated as a condition during the bargain will not be binding. Unless the ready payment (agreed on) is fulfilled,

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[1] Please review the first chapter for **'ushr**.

[2] Please review the last section, under the heading '**Waqf**', of the forty-fourth chapter, for '**mutawallî**'.

the âjir (renter) may desist from delivering the property and the ejîr, (i.e. the laborer,) may give up doing the work. It may also be stipulated that the wage will be paid at the end of the period. If the owner of the property or someone else exacts the property from the tenant by force, the tenant will not (have to) pay the rental for the period during which he has been deprived of using the property.

If the owner of the property withholds the property although he received the rental on the basis of ready payment, the rentals he has received during the past period will go out of his possession, (that is, they will not be his rightful property.) He will have to repay them to the tenant. Which party is to pay zakât for the money paid in advance, as in this example, is explained as follows in the book entitled **Fatâwâ-i-Hindiyya**: Supposing a person pays in advance a thousand liras for ten years' rental for the house he hires. The house has not been delivered to him. A year later the âjir (lessor) will pay zakât for nine hundred liras of the thousand liras in his possession. Two years later he will pay zakât for eight hundred liras. Every year he will pay zakât for the previous year's amount minus one hundred liras and minus the amount of zakât he has hitherto paid. The musta'jir (tenant), in his turn, will not pay zakât after the first and second years, since the money to be returned to him has not yet exceeded the amount of nisâb. Three years later he will pay zakât for three hundred liras, and every year thereafter he will pay zakât for a hundred liras plus the amount (for which he paid zakât the previous year) minus the zakât he has hitherto paid. If he had given a jâriya worth a thousand liras in the name of rental, the âjir would not (have to) pay any zakât, since the jâriya given to him is not commercial property. The musta'jir, on the other hand, would pay zakât as in the former case. If the property given in the name of rental had been something measured by capacity or by weight and a deyn, it would be treated like money. Had it been an 'ayn, however, it would have fallen in the same category as the jâriya. If the âjir (lessor) has not received the money in advance although he has delivered the house, the procedure to be followed concerning the payment of zakât should be turned the other way round. Accordingly, the âjir will pay zakât in a manner that we have written for the musta'jir, while the musta'jir will follow the policy described for the âjir.

Owner of the property may demand that payment of a rental agreed on on a daily basis should be made every evening. An artisan may decline to deliver the things (he has been

commissioned to make) to the owner of the things until he is paid for his work. If the thing ordered perishes, so that the artisan cannot deliver it, then the artisan cannot receive any payment. If it has been stipulated that he will do the work in person, he cannot employ someone else. In services that do not involve workmanship, the person hired, such as a porter or a boatman or a driver, cannot retain the thing rendered to his care on the grounds that he has not received a payment. If that thing perishes, he will (nonetheless) get his wage.

Supposing a house or a shop is being rented out; if it is not stated what kind of work will be being carried on in it, any work that will not give harm to the building may be carried on. Moreover, the tenant may rent the house or the shop out to a third person before taking possession of it. He could not rent it to a third person if it were portable property. Once property has been rented out, a third person's using it will be extortion. (In that case) the tenant will not (have to) pay the rent.

A person who makes a child work for him without its walî's permission will (have to) pay the child for the work.

Property rented out is a trust once it is delivered to the tenant; he will not have to compensate for it if it perishes without any intentional abuse on his part. Using something in an inoperable manner is in effect a kind of abuse. As a piece of arable land is being rented out the kind of the seed to be sown should be specified, or it should be stated that anything may be sown at will. Arable land may as well be rented out on the understanding that it will be used for building houses or planting trees. When the period agreed on expires, these things should be removed, or the owner of the land should buy them. Clovers are categorized as trees. If the rental period expires before the crop has grown, the period will be extended until the time when it grows. An animal is hired either for the purpose of riding or as a pack animal, and clothes are hired for the purpose of wearing them. If a house rented or an animal or clothes hired are damaged because the renter has disregarded the conditions agreed on, he will have to compensate. If the conditions stipulated do not cover damages, then the renter will not have to observe them. For instance, if it has been stipulated that two people will live in a house rented, then three or five people may live in it. When an animal or a truck is being rented, the condition stipulated should concern not the kind of the pack but the weight of it. However, something harmful cannot be loaded. If he, (i.e. the person who hires the animal,)

mutilates the animal by tugging or flogging it, he will (have to) pay for it. Supposing a porter or a truck does not follow the route stipulated and thereupon the load perishes, they will have to pay for it if the route followed is not a generally preferred one or if it is out of service. Otherwise, he will not pay for it. It is permissible to perform a renting business by exchanging letters. Not to reply an offer concerning a renting business means acceptance. If a person who rents land by saying he will sow wheat sows clover instead, the owner may increase the rent. If a tailor makes, say, a pair of trousers instead of, say, a jacket, the owner of the material will have a choice between accepting the trousers and having the material paid for. Owner of the property cannot cancel the agreement before the time agreed on expires, not even when he finds someone who offers a higher rent. A third person who purchases property with a tenant in it cannot evict the tenant before the lease expires. The buyer will have to wait till the date of expiration or get the purchase cancelled by court of justice. If the annual rent is stated and the rental period is not mentioned, the period will be accepted as one year. The period begins by the date of agreement. Yet the payment begins on the day when the property is handed over.

Supposing a person who has rented a shop and taken possession of it does not operate the shop, so that the shop remains closed for a while, he will have to pay the rent completely. A year's lease may be contracted on the basis of an agreed on amount of monthly payment as well as by agreeing on a total yearly amount. If the tenant changes his craft or goes bankrupt or moves to another city and settles there, the lease will become null and void.

If one of the rooms or one of the walls of a house collapses, the tenant will have a choice between evacuating the house and retaining the tenancy and living in another room of the house by paying the rent in full.

Maintenance of a house or other property on lease, such as reopening of its pipes that have been clogged with time, devolves on the owner of the house or property. If he does not observe this responsibility, the tenant may evacuate the house. Yet he cannot force the owner of the house concerning the maintenance. If the tenant makes the repairs on his own with the permission of the owner, he may deduct the expenses (from the rent). He cannot do so, however, if he has made the repairs at will (without the owner's permission). If the thing repaired is something to be used, (e.g. a dough oven,) the tenant cannot deduct the money spent for its

repairs (from the rent).

If the tenant causes harm to the property, the owner cannot evict him. Yet he may start a legal case against him. Prison fees and warder wages devolve on the Beyt-ul-mâl. In the absence of the Beyt-ul-mâl, they will be paid by the creditor. Expenses for the legal case will be met by the plaintiff. If the house owner is absent at the end of the period of lease, the period of lease will spontaneously lengthen as much again. The same rule applies in case the tenant becomes absent. In other words, the owner of the property cannot evict the tenant's family from his house. However, if he rented his house out to a third person before the end of the former lease, the former lease will expire by the end of the period, and the second period will begin. Now he may evict the former tenant's family from the house. At the end of the period, either party may cancel the lease. Yet the party to cancel the lease will have to do so in the presence of the other party, with whom he made the agreement.

If the owner of the property does not prolong the lease when the former period ends, the tenant will (have to) evacuate. He has to return the property in the same condition as it was (when he rented it). If he does not do so, he will have committed an extortion. A reasonable measure of wornness, which is pragmatically and empirically ineluctable once something has been put to use, will not incur culpability.

As a certain animal or car or motor-vehicle or truck can be rented for transportation from one place to another, likewise an agreement can be made for transportation of certain people or cargo. If the vehicle stalls on the way, in the former type of renting the customer has an option; he may choose to wait until the vehicle is fixed or discontinue the agreement by paying for the accomplished part of the way. In the latter kind of agreement the owner of the vehicle has to complete the transportation by providing another vehicle. Moreover, it devolves on him to unload the vehicle. No payment is made for a transportation that has been discontinued and the vehicle has returned on account of a possible danger further ahead.

It is permissible to charge a fee for services such as bath and bleeding. It is harâm to charge for a male animal's covering a female one. [Supposing the female animal has been taken to the village of the male animal; in that case the owner of the stallion will be paid for the food and utility expenses he has gone to.] It is not

sahîh for a mechanic to give a guarantee of time for something he has made or fixed. If it breaks down within that time, he will not (have to) fix it.

It is stated as follows in **Khulâsal-ul-kalâm**, (by Ahmad bin Sayyid Zaynî Dahlân, 1231 [1816 A.D.], Mekka – 1304 [1886], Medîna:) “It is not permissible to hire a hâfiz to listen to his recitation of the Qur’ân al-kerîm, or a book to read.” A gift should be given to the khodja who teaches (you or your children how to read) the Qur’ân al-kerîm.

Although it is not permissible to charge for services such as (conducting public prayers –termed namâz in jamâ’at and conducted by a person called–) imâm; (calling to prayer, which is termed) azân (or adhân); reading or reciting the Qur’ân al-kerîm or (a special prayer termed the) mawlîd; and teaching Islamic knowledge, it is permissible to accept a wage offered in return for serving as an imâm or a muazzin or for teaching knowledge. It is not permissible to accept a wage for having committed acts that are harâm.

A person who does not pay any kind of rent or wage will be sent to prison. [It is necessary to pay for any kind of transportation without having recourse to cheating.] In civil services, e.g. in services pertaining to public security and health, central and local governments pay the salaries and wages of civil servants, workers and administrators and meet all their needs. They make these payments on behalf of the people, taxing them as the source of the money necessary for that service. It will therefore be sinful not to pay a tax or to have recourse to chicanery. As is stated by Ibni ’Âbidîn ‘rahmatullâhi ta’âlâ ’alaih’, in the section dealing with ’Ushr[1] of the book **Radd-ul-muhtâr**, and by the blessed author, (Ibni Nujaym) ‘rahmatullâhi ta’âlâ ’alaih’, of the book **Bahr-ur-râiq**, in its section dealing with Shurb: “The expenses made for the cleansing of a river that is not anyone’s personal property are defrayed from the jizya and kharâj[1] department of the Beyt-ul-mâl. They will not be defrayed from the zakât and ’ushr department. For, the payment of zakât is to be made only to poor Muslims. If that department of the Beyt-ul-mâl does not have an income, the cleansing will be done by the people being there. If they refuse to do the work, then poor people will be made to work by force, and the expenses will be met with the money exacted

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[1] Please see the first chapter for **’Ushr**, **jizya**, and **kharâj**.

from the rich.” The same explanation is written in the thirteen hundred and the twenty-first (1321) article of **Majalla**. The same method is used for financing the public services mentioned in the final section dealing with ’Ushr and within the subject of Beyt-ul-mâl. Hence, the central and local governments have the right to demand, nay, to exact from the people the costs of the services they have done.]

The blessed author, (Alâ-ud-dîn Haskafî) ‘rahmatullâhi ta’âlâ ’alaih’, of the book **Durr-ul-mukhtâr**, states as follows as he deals with leasing in the thirty-fourth page of the fifth volume: It is not sahîh to hire people who commit sins, e.g. those who sing songs, those who cry eulogies for dead people, and those who play musical instruments. So is the case with playing drums for dancing. It is permissible to play drums for soldiers or in a wedding. A singer or an instrumentalist has to return the money he has earned to its owner(s). If its owners are not known, the money must be dispensed as alms to the poor. If people of this sort are not hired, the money given to them will be halâl because it will be a gift, since it has not been stipulated beforehand. However, it still is not a pure and commendable way of obtaining money. For, gifts that have developed into customs are like wages stipulated.

Nor is it permissible, according to the Madhhabs of Hanafî and Hanbalî, to hire a man to perform acts of worship or to rent a house for performing namâz in it. It is not permissible, for instance, to have someone call the azân or to send someone out for hajj by paying him a wage, to teach (how to read) the Qur’ân al-kerîm or any other religious knowledge in return for a wage. According to the Madhhabs of Shâfi’î and Mâlikî, it is permissible to hire someone to read (or recite) the Qur’ân al-kerîm by a grave in the presence of the hirer. In these (two) Madhhabs, however, the thawâb for an act of worship that a Muslim performs physically cannot be sent to other people’s souls. The later generation of Islamic scholars, [not the enemies of religion,] said that it would be permissible to hire someone for services such as teaching (how to read) the Qur’ân al-kerîm or other Islamic knowledge, calling the azân, and conducting the namâz in jamâ’at as the imâm and to pay them for these services. In that case, it would be compulsory to pay them the wage(s) agreed upon, and declining to do so would incur imprisonment. To explain these statements, Ibni ’Âbidîn notes: In actual fact, it is not permissible to get an act of worship performed in return for a payment. For, it is stated as follows in a hadîth-i-sherîf: “**Read** (or recite) **the Qur’ân al-kerîm. But do not make it a**

means of living!” Another hadîth-i-sherîf reads: “**Call the azân** (or adhân)**. But do not receive a wage for the azân** (that you call)**!**” The contemporary general sloth in the observance of Islamic practices has made payment inevitable lest the Qur’ân al-kerîm and religious teachings should be forgotten and so that services such as being an imâm or muazzin should be carried on. Yet this fatwâ does not show that all acts of worship may be commissioned by paying wages. The aforesaid inevitability subsumes only the acts of worship that we have just specified and which make an exception from the basis of the Madhhab. Since it is not a(n inevitability termed) darûrat to hire hâfizes to read (or recite) the Qur’ân al-kerîm, it definitely is not permissible. Tâj-ush-Sharî’a states as follows in his (book **Nihâya-t-ul-kifâya**, which is a) commentary to the book **Hidâya**: “When Qur’ân al-kerîm is read (or recited) for payment it will not generate any thawâb, neither for the dead person nor for the person who reads (or recites) it.” It is stated in the same book, commentary to **Hidâya**: “Hâfizes should not read (or recite) the Qur’ân al-kerîm in return for money or other property. If they do so, not only the hâfizes themselves but also the people who pay the money will be sinful.” It is written in the book **Jawhara-t-un-nayyira**, (by Abû Bakr ’Alî – d. 800 [1397 A.D.]:) “There have been scholars who have said that it is not permissible to hire someone to read the Qur’ân al-kerîm for a certain period of time, as well as those who have said that it is permissible. The latter group are right.” It sounds as if the word ‘read’ has been erroneously written for the word ‘teach’ in the statement we have quoted. As a matter of fact, that part of the statement reads as follows in the [1301 – İstanbul] edition of **Jawhara-t-un-nayyira**: “The scholars who have said that it is not permissible are right.” Shaikh-ul-islâm Khayr-ud-dîn Ramlî ‘rahmatullâhi ta’âlâ ’alaih’, (993 [1585 A.D.] – 1081 [1670], Ramla,) states that ‘teaching’ the Qur’ân al-kerîm should not be confused with ‘reading’ the Qur’ân al-kerîm, and adds: “It is bâtil, and a bid’at, to have the Qur’ân al-kerîm read (or recited) in return for a wage. No one committed that act during the four Khalîfas. There is a darûrat for teaching (how to read) the Qur’ân al-kerîm. Yet there is not a darûrat for hiring someone to read the Qur’ân al-kerîm by a grave.” Debatability concerning being permissible or not pertains to the money received in return for teaching the Qur’ân al-kerîm. No Islamic scholar has stated that it is permissible to receive money for reading (or reciting) the Qur’ân al-kerîm or for performing the mawlid. It is a commendable act to visit the

grave of a dead acquaintance of yours and to read (or recite) the Qur'ân al-kerîm and send the thawâb that you earn on account of that act of worship to that person's soul. However, it is not permissible to enjoin that pious act (upon your inheritors) in your last will. Nor will it be permissible when it is done with the intention of supporting the person who will read (or recite) the Qur'ân al-kerîm. It has been stated (by scholars) that it is permissible to have a ruqya [musqa ≃ charm, amulet] containing âyats of the Qur'ân al-kerîm written by paying money; yet the payment made here is for the treatment administered [and for the paper and ink used]. It is not intended for an act of worship commmissioned. Here we end our translation from the blessed book of Ibni 'Âbidîn.

Hamza Efendi 'rahmatullâhi ta'âlâ 'alaih' states as follows in his pamphlet entitled **Bey' wa Shirâ**: "It is harâm to have the Qur'ân al-kerîm read (or recited) or other acts of worship [such as mawlid] performed for money. The money should be dispensed to the poor and the thawâb earned thereby should be donated to the (soul of the) dead. The only religious services for which payment of money has been justified are teaching the Qur'ân al-kerîm or Islamic knowledge and being an imâm or a muazzin."

[It is stated as follows in the final pages of the books entitled **Hadîqa** and **Berîqa**: "If a hâfiz, (a person who knows how to read or recite the Qur'ân al-kerîm properly,) makes a khatm, (i.e. reads the entire Qur'ân al-kerîm,) reads a juz', (i.e. twenty pages of the Qur'ân al-kerîm,) or performs a mawlid for the sake of Allah without bargaining beforehand, it will be permissible for him to accept the present given by the person who requested these services from him. If he objects (to the amount), then what he receives will be harâm." On the other hand, it is not permissible for the latter to offer a small amount. Imâm Zâhidî 'rahmatullâhi ta'âlâ 'alaih', (Mukhtâr bin Mahmûd, d. 658 [1259 A.D.],) states as follows in his valuable book **Hâwî**: "It is not permissible to give a hâfiz a present worth less than forty-five dirhams [of silver or three gold one-lira coins that weigh four and a half mithqâls] for having made a khatm (for you)." The more you give, the more will be the thawâb you will be given. Ibni 'Âbidîn states as follows in the two hundred and forty-ninth (249) page of the fifth volume: "Acts of worship such as serving as a judge should be accepted and undertaken without stipulating a payment, and the payment made thereafter should be admitted, whatsoever the amount. It will be bâtil to bargain on the amount of the payment, and the money

received in that case will be harâm." The hâfiz to make the khatm should not discriminate against people who offer less than others do. If he does so he will have become a hâfiz for earning money, which in turn is harâm. Hâfizes should not make a living on reading (or reciting) the Qur'ân al-kerîm or performing mawlids. They must perform those acts of worship for the grace of Allah and without thinking of money. They must live on their duties in office as the imâm (of a certain mosque), or on art or trade. People who reproduce copies of the Qur'ân al-kerîm and sell them, thus making them a means for their trade in books, will be doing something not only permissible but also productive of thawâb, if they are doing so with the intention of contributing to the perpetuation of services such as teaching the Qur'ân al-kerîm and reading it; the money they earn will be halâl. What is symptomatic of that intention is to sell them with little profit and for prices verging on their prime costs. If other books suffice for a living, the copies of the Qur'ân al-kerîm should be sold without a profit. It is stated as follows in **Shir'a-t-ul-islâm**: "When Hadrat Mu'âz bin Jebel 'radiy-Allâhu ta'âlâ 'anh' was informed that a certain person was selling (copies of) the Qur'ân al-kerîm, he said that what that person was doing should not be called 'to sell the Qur'ân al-kerîm' but 'to demand a price for the work he has done and for the paper he has used', and that to be said to be selling the Qur'ân al-kerîm that person should be teaching it in return for money." Hâfizes who memorize the Qur'ân al-kerîm in order to recite it for a living and those who read (or recite) it not suitably with (the rules of pronunciation and articulation termed) Tajwîd, but melodiously like singing a song, are not 'hamala-i-Qur'ân' in the true sense of the word. They are people defined in the hadîth-sherîf that reads: "**There is many a hâfiz who is condemned by the very Qur'ân al-kerîm he is reading** (or reciting)."]

If a person does not hand over the property he has rented out, he will be kept in prison until he does so.

Property owned by more than one people can be rented only to one of the co-owners. According to the Imâmeyn, (i.e. Imâm Abû Yûsuf and Imâm Muhammad,) it can be rented out to an outsider as well. It is permissible to rent a house to more than one people. It is to permissible to hire a wet-nurse for a known wage. The wet-nurse hired will be responsible also for washing the baby and its diapers and for feeding it. A man may decline to send his wife out as a wet-nurse.

Ijâra (leasing, renting out) **that is fâsid**: It is fâsid to get cloth

vowen on the understanding that some of the thread (to be used) will be left as a rent to the weaver or to rent a pack animal to get your load carried on the understanding that some of the load will be given as a rent or to get wheat crushed and ground on the understanding that some of the flour will be given as a rent. If a person uses someone else's property without the latter's permission, he will not pay a fee for it.

Ejîr-mushterek: It means a free laborer. He is a laborer who may work for anyone, or for a certain person but not for a specified time. Only, his wage will be paid when he is through with the work. The thing to be worked over is a trust entrusted to him for safekeeping; he will not pay for it if it perishes. However, if he himself causes the destruction, he will (have to) pay for it even if he has not caused it on purpose. If a doctor or a dentist or a druggist causes harm to the patient by doing something wrong and outside of science, he will have to compensate.

Ejîr-i-khâs: It means a laborer hired specially to do a certain kind of work within a certain time. If the thing entrusted to his care perishes inadvertently, he will not have to pay for it. It is permissible to offer the laborer two or three different kinds of work with different payments and pay him for the work he has chosen and done. It is out of the question to offer four choices of work. The wage will be paid even if the time agreed upon is not known well. If the (amount of the) wage has not been stated, the person hired will be paid a wage commensurate with its equivalents paid in that country, if he is a person who works as a laborer or craftsman. If he is not a person in that category, he will not be paid anything because he has been there to help. As well, a person who has come to do the work without having been called will not be paid anything.

A laborer cannot have someone else substitute him at a kind of work if it has been stipulated as a condition that he himself do the work.

A porter has to carry the load in, yet he does not have to put it in its place.

A dellâl or simsâr (broker) is like a laborer. However, the fee that they get is in return for the sale of the property, not for the work. It is not permissible to get your debtor to work for you on the understanding that his debt will be forgiven in return for (his relinquishing) the wage he is to be paid. [**Durr-ul-mukhtâr**, final part of the chapter dealing with 'waqf'.]

Supposing you are giving cloth to a tailor (and asking him to make a suit, etc. for you; it is permissible, according to the Imâmeyn, to say, for instance, “I will pay a hundred liras if you make it in a week and fifty liras if you make it in two weeks.” It is permissible to say to your would-be tenant, for instance, “The rent you will pay for this shop is a hundred liras if you use it as a tailor’s shop, and two hunderd liras if you use it as an ironsmith’s shop.”

Supposing a person took some cloth to a dyer’s shop and asked them to dye it and some time later he is back to pick it up, and supposing that the owner of the cloth claims that the cloth has been dyed blue although he said he wanted it red and the dyer says, “No. You said blue.” In that case the owner’s claim will be accepted to be true. So is the case with a tailor’s having made a pair of trousers instead of a jacket. These people will not be paid. Moreover, they will have to pay for the cloth; or, the owner of the cloth may prefer to accept what has been made and deduct the difference from the payment, determining the amount to be deducted in accordance with market prices.

The ijâra (rent, hire) will be cancelled in case the property is no longer usable. Also, a good excuse on the part of the tenant will cause it to be cancelled. Examples of a good excuse are a toothache’s disappearing after having bargained with the dentist; perishing of the capital owned by the would-be tenant or there arising a new debt on his part and his having no other property to pay it off with after he has hired the shop for trade; and a person’s cancelling for some good reason a long-distance transportation that he has planned and for which he has hired a truck (or a lorry). In this last example the driver cannot cancel the agreement (unilaterally) only because he has changed his mind about the transportation; his becoming ill, however, will be a good excuse (for cancelling the agreement). If a tradesman or a craftsman goes bankrupt, the agreement he made with his assistant will become null and void. Not so is the case with a craftsman working for another person. Nor would the sale of something that had been rented out be a good excuse. That is, it would not cause the agreement to be cancelled. It will be a good excuse to give up the craft you have been carrying on and start another craft in the shop you rented. Another good excuse is to set out for a long-distance journey (safar) after having rented a house. Death of one of the parties is another good excuse. It is permissible for a tenant to rent something and then rent it out for a higher rental; in that case, however, he will have to dispense the difference as alms (to the

poor). Property owned by more than one people may be rented out collectively by the co-owners. It will be fâsid if they rent it out independently of each other; and it will be bâtil if one of the shareholders rents out his share.

INSURANCE: Ibni 'Âbidîn 'rahmatullâhi ta'âlâ 'alaih', states as follows in his discourse on a disbeliever's coming to a Muslim country with a permission called emân: A disbeliever who enters another country with their permission is called **muste'min kâfir** (alien disbeliever). A disbeliever who comes to the Dâr-ul-islâm as an alien will live here safely like a dhimmî, i.e. a non-Muslim fellow countryman, who lives here. He will enjoy the same rights as a dhimmî's. His property will have the same inviolalibility, so that it will not be permissible for us to take it without an agreement (made with him). A Muslim who does not repay his debt to that alien, or to a dhimmî, will be imprisoned. The only difference is that, (if he is murdered,) his murderer will not be punished with qisâs; instead, he will be chastised only with the blood-money payment called **diyat** (or diyet). Ibni 'Âbidîn states as follows in his explanation of **istilâd**: "On the day of Judgment exoneration from rights of dhimmîs and animals will be more difficult than exoneration from rights of Muslims. A Muslim who extorts or steals a dhimmî's property will suffer torment for it on the Judgment day."

A **muste'min Muslim** being in the Dâr-ul-harb; e.g. a Muslim who has gone to France from Turkey for business, may take possession of disbelievers' property by way of an agreement termed 'fâsid'. For, it is permissible for an alien in the dâr-ul-harb to obtain disbelievers' property as long as they consent to his doing so. For instance, it is permissible to take interest from them by lending them money or to earn money from them by way of gambling. For, their property is halâl for us. However, ghadr, i.e. not to keep one's promise, and treachery are felonies that are harâm regardless of the place being lived in. To take someone's property with his consent is not ghadr. Yet it is a sin called ghadr to impinge on their property or to assault their wives or daughters; these are harâm acts. On the other hand, it will be ghadr to take possession of property belonging to a muste'min disbeliever living in a Muslim country by any way that is not permissible in Islam, be it with their own consent. For, an Islamic country is where Islam's commandments must be observed with exactitude. In an Islamic country the agreements to be made with muste'min disbelievers are subject to the same principles of permissibility as those made

with Muslims. They cannot be charged with payments that are not essential in Islam. Such chargings are not permissible even if they have become established customs. For instance, it is not permissible to get a fee in the name of an arrival tax or such like from those people who are in this country to visit the blessed mother Mary or from other tourists. It is harâm also to charge an arrival tax from a Muslim on hajj.

It is permissible for a Muslim captive in the Dâr-ul-harb to attack their property and lives. It is permissible even if he has been set free, so that he can go around and make a living freely. For, he has not promised them or become a muste'min Muslim. However, it is not permissible for that captive to rape their women and girls. For, waty (sexual intercourse) with a woman other than one's Islamically legitimate wife or a jâriya that one has bought is by no means permissible. Waty with any woman other than these two is fornication. Waty with a jâriya who is mukâteb, (i.e. who has been promised freedom on the condition of a certain payment,) or a jâriya who is commonly owned by two people or a jâriya who is married to someone else by way of (an Islamic marriage contract termed) nikâh although she may be one's own jâriya or someone else's jâriya, is not permissible. A **jâriya** is a female disbeliever who has been captivated in a war against the enemy and brought to the Dâr-ul-islâm. Like property of ghanîma, such women are shared among the ghâzîs. It is not permissible to sell or buy a person who has not been captivated in a war.

If a Muslim muste'min is treated with ghadr in the Dâr-ul-harb, e.g. in a Christian country, for instance if their government unlawfully confiscates his property or imprisons him for no good reason, that Muslim will in effect be a captive. It will be permissible for him to react with ghadr against them.

An example of the case we have explained in the previous paragraph is the money taken in the name of insurance. Supposing a Muslim tradesman is sending his goods on a ship belonging to a harbî, a foreign disbeliever living in the Dâr-ul-harb. He pays the owner of the ship, a disbeliever, a fee for the freight. In addition, he pays a certain amount of money called **insurance premium** to a harbî living in the Dâr-ul-harb, e.g. in London. If the ship burns or sinks or gets robbed, or if the goods perish in any other way, that harbî will pay him the entire value of his goods on the ship in return for the insurance premium. This policy is permissible. On the other hand, the harbî has a musta'min representative who lives in the Muslim country with the permission of the Sultân of the

Muslim country. The tradesman makes the insurance agreement through that representative, a disbeliever, who takes the insurance premium from the tradesman. If a part of the goods belonging to the tradesman perishes on the sea, the representative pays the entire value of that part. To our understanding, it is not halâl for the Muslim tradesman to take the value of the goods that have perished from that representative. For, this money is a due that is based on an agreement made in the Dâr-ul-islâm and which is not permitted by Islam. [It is like money earned by gambling.]

Question: When a depositary is paid for property entrusted to his care, he will have to pay for that property in case it perishes. [This case is not comparable to gambling.] Isn't insurance similar to this case?

Answer: Money taken from the insurance agent is unlike the compensation paid by the depositary. For, the property has been entrusted to the owner of the ship, not to the insurance agent. If the insurance agent is (at the same time) the owner of the ship, he will be an ejîr-i-mushterek, i.e. a laborer in the general sense, a free laborer, (which has been defined a few pages earlier.) The property entrusted to him will be a deposit. And the insurance premium paid to him will be like the fee paid to the depositary. Moreover, a depositary or an ejîr-i-mushterek will not have to pay for loss of property due to inescapable events such as sinking of the ship, death, etc.

Question: According to information given in the initial pages of the chapter dealing with kafâlat, "Supposing a person says to another to follow a certain route and that it is safe, and the latter takes that route and gets robbed on the way; the former will not have to pay for the loss of the latter for having said that the route was safe. If the former had said, 'This route is safe. If you get robbed I will pay for your loss,' he would have to compensate." Isn't insurance the same as this?

Answer: To say that the route is safe means to say, "I know that the route is safe." A person will not be a kefîl (surety) by saying that he knows something. He will be a kefîl if he says, "I will pay for your loss if it is not as I say." The former person is not a kefîl because he has not said that he will pay for the loss if the latter person gets robbed on the way. So he does not have to pay for the loss. His saying that he would stand surety (kefîl), if he had said so, would signify that he were not lying. For instance, supposing a villager brought wheat to a mill and the miller said to him, "Put

your wheat in this bucket.” The villager did so, and the wheat fell into water through a hole at the bottom of the bucket and the water carried all the wheat away. The miller will have to pay for the wheat if he knew about the hole at the bottom of the bucket as he said to put the wheat in the bucket. For, he has cheated him by saying so. That means to say that for an act to be a cheating the person who gives the advice should be aware, and the person who acts upon the advice should be unaware, of the precariousness. If the villager had put his wheat in the bucket although he had seen the hole, he would have wasted his property of his own accord.

It is an obvious fact that the insurance agent is by no means intent upon cheating the tradesman. Whether or not the ship will sink is something beyond his knowledge. As for the danger of pirates and robbers; it would be known by the tradesman quite as well as by the insurance agent. As a matter of fact, the tradesman pays the insurance premium in order to get the compensation that will be provided for the loss of his property, because he knows about the dangers en route. The facts with insurance are dissimilar to the downright cheat exemplified with the wayfarer and the villager.

Supposing a Muslim tradesmen has a business partner who is a harbî living in the Dâr-ul-harb, [such as a country where people worship idols; say England,] and this partner makes a contract with an insurance agent in that country, the property perishes, and he gets the money paid as a compensation by the insurance agent and sends it to his Muslim partner living in the Muslim country; it will be halâl for the Muslim tradesman to accept the money. For, the agreement, fâsid as it is, has been made between two harbîs living in the Dâr-ul-harb. In effect, their property has been sent to a Muslim of their own accord. It is not sinful for a Muslim to accept it.

It is permissible for a Muslim tradesman to go to the Dâr-ul-harb, to make an agreement with the insurance agent there and, when his property perishes, to receive the equivalent for his property from the insurance agent’s representative in the Dâr-ul-islâm. For, an agreement made with a harbî in the Dâr-ul-harb has no value. (By doing so, therefore,) he has taken possession of a harbî’s property with the harbî’s consent. If he had made the agreement with a disbeliever in the Dâr-ul-islâm and taken the equivalent for the property (lost) from the disbeliever in the Dâr-ul-harb, it would not be halâl even if he had done so with the disbeliever’s consent. For, he would have received the property as

a result of a fâsid agreement made in the Dâr-ul-islâm. Any agreement made in the Dâr-ul-islâm is valid, and its consequent tenets have to be carried out in a manner taught by Islam. The agreement itself, however, is harâm because it is fâsid.. The passage translated from Ibni ’Âbidîn ends here.

Muhammad Bahît-ul-Mutî’î (Hanafî Azharî) ‘rahmatullâhi ta’âlâ ’alaih’, (d. 1354 A.H.), one of the greatest Islamic scholars of the latest century, states as follows in the twenty-fourth (24) page of his booklet entitled **Sukertah**: “An insurance contract is a fâsid agreement. For, it is an agreement made dependent upon a probable danger, which in its turn, is a kind of gambling.” Another Islamic scholar, namely Ahmad Ibrâhîm Efendi, states in the third issue of the year 1941 of his **Majalla-t-ush-shubhân-ul-muslimîn**: “The life insurance is a form of gambling made dependent upon a danger.” Versus these scholars, Dr. Siddîq Muhammad Amîn Daîr argues as follows in the sixth issue of the year 1975 of **Hedy-ul-islâmî**: “Insurance is mutual aid. It provides the sharing of a danger coming upon a person among many other people. The insurance agency stands surety for this mutual aid. The person insured and the insurance agent are secured about the money that is due to them as well as that which they are to pay. Insurance is intended for safety against danger. Gambling, by contrast, is to expose oneself to danger. Insurance is a serious agreement. Gambling, on the other hand, is a game. Yes, insurance in an **’aqd** (agreement, contract) that contains **gharer**, i.e. something with a probable and doubtful result. Rasûlullah ‘sall-Allâhu ’alaihi wa sallam’ has prohibited a sale with gharer. An example of this is to sell fish uncaught. The gharer in insurance is gharer-i-fâhish. However, agreements with gharer are permissible in cases of a general need and in absence of any other way out. Imâm Suyûtî ‘rahmatullâhi ta’âlâ ’alaih’ defines a situation of need as follows: It is a situation that will develop into a suffering in case what is prohibited is not utilized. Not utilizing what is prohibited will not necessarily cause death.” That a person in danger or suffering a loss will need help is an incontestable fact. Yet companies of legal aid that are sustained with charitable gifts and donations and which do not operate on profit are handy for this job. There is no need for insurance companies, which have been established for profit and earning. Companies of aid are managed by an elected group of the subscribers and/or administered by the State.

Muhammad Amîn Darîr employs his personal logic to contradict great scholars of Fiqh. The fact, however, is that he

contradicts the (Islamic) science of Fiqh itself both in mentality and in logic. For one thing, he categorizes gambling as a mutual aid. So poor is his reasoning that he omits the obvious fact that Islam prohibits doubtful, gambling-like mutual aid and encourages charitable people to contribute to mutual aid by making free gifts. People suffering losses should be supported not by way of harâm but by way of halâl. His saying that the person insured is secured about his dues means to claim foreknowledge of a future misfortune, which in turn is contradictory not only to the science of Fiqh but also to the tenets of îmân (belief that Islam teaches and enjoins). For, a statement of foreknowledge about the ghayb, (which means anything that no one but Allâhu ta'âlâ knows,) will drag the owner of the statement into a state of kufr (unbelief). If what he fails to say is that the person insured is secured about the money that is due to him in the event of a misfortune, then that would mean to say that insurance is harâm because it is a kind of gambling, which in effect means to reject insurance in an attempt to champion it. Many a tradesman ventures into dangerous ways of trade. Such dangers have not prohibited trade and art. Gambling, on the other hand, does not involve any of such dangers. As a matter of fact, gambling has been prohibited on account of its being a dangerless and effortless way of earning. On the other hand, it would be consternatingly unfair to look on the gambling inherent in the war games and educational games as 'sheer games'. It is true that games contain gambling. Yet it would be wrong to call every gambling a 'game'. The late Shaikh Abû Zuhra 'rahmatullâhi ta'âlâ 'alaih' also states that it is a kind of gambling, that it contains gharer, that loss is suffered by the amount of ghaben-i-fâhish by the insurance agent when there is a danger and by the person insured when no danger is involved, and that, however, it is essential that any agreement should involve equal and evenhanded danger for both parties. He writes also that life insurance is downright gambling and sheer interest. He adds that it was unanimously decided in a conference held in Beida, Libya, that the insurance contracts based on loss and danger were permissible on account of their having become established customs and their contribution to the enhancement of import although they ran counter to the teachings of Fiqh in all four Madhhabs and that life insurance was harâm because it was a kind of open gambling. All the pieces of information presented so far converge on the fact that insurance is not halâl, regardless of its kind. Nor can an insurance based on loss and danger be said to be

halâl. This mission is being carried on by coffers of aid. However, donations to the coffers of aid are made by charitable people and by the government. Contributers who put their money into these coffers are not accredited to utilize them. If they attempt to do so, the whole thing being done turns into gambling, which is harâm. The harâms' becoming established customs will not convert them into acts that are halâl.

As is seen, an agreement made with any insurance agent in the Dâr-ul-islâm is fâsid, regardless of whether he is a Muslim or a disbeliever. It is halâl for a Muslim to make an agreement, in the Dâr-ul-harb, with an insurance agent who is a disbeliever living there and to take money from him. In the Dâr-ul-islâm losses suffered by way of accidents and misfortunes must be compensated not by insurance companies but by **aid societies**. Thereby, not only will a service be offered to the people, but also the charitable people will earn plenty of thawâb for their donations. To the bargain, the people will be saved from a grave sin.

The Arabic word used for 'insurance' is **Te'mîn**. There is detailed information under the title **'Uqûd-ul-ghurer** in the seven hundred and forty-seventh (747) article of the Libyan laws that were in force before the socialist *coup d'état* and of the Egyptian laws and also in the six hundred and seventeenth (617) article of the Sudanese laws, and also in the March 1395 [1975 A.D.] issue of the civil code entitled **Hedy-ul-islâmî** and published by the ministry of Mortmain Estates in Libya. It is written in the 1975 and 1976 issues of **Hedy-ul-islâmî** that a major part of the information given therein is counter to Islam. Islam does not accommodate any sort of insurance. Islam holds societies such as **Waqf**, **Beyt-ul-mâl**, and **Aid Societies**. The functions of workers' insurance and veterans' coffer are carried on by the Beyt-ul-mâl. The Beyt-ul-mâl does not take any premium from workers and civil servants. It does not deduct anything from their salaries and wages. For, these people are poor. Instead, it receives zakât from employers and tradesmen. This job is carried on by the government. Government examiners scrutinize the books kept by employers and tradesmen, and the government takes the zakât and puts it in the Beyt-ul-mâl. Thence it provides houses, salaries, and means of living for workers, civil servants, and veterans. Thus all Muslims lead a comfortable and happy life. The great scholar 'Abd-ul-Hakîm Efendi explained in his preaches that the property and money subtracted from salaries and those collected in workers' insurance

and depositaries are to be categorized as **luqata**. Luquta means property found on the ground and picked up. Property of this sort, as well as mâl-i-habîth (wicked, dirty property), should be returned to its owner. If its owner cannot be found it is dispensed to the poor. Once the poor take possession of property in this category, it is their property. The government does not engage in trade or agriculture. Even industries, light and heavy alike, are not its business. These things devolve on the private enterprise, i.e. the people. That any kind of insurance is harâm is written, together with documentary sources, in the book entitled **el-Halâl wa-l-harâm** and written by Yûsuf Qardâwî.

Aid organizations such as Red Crescent and Waqf Ihlâs are subject to rules of **Hiba** (giftmaking, donation) in Islam. They are not institutions called waqf. For, gold coins and paper bills donated as a waqf will not be anyone's property. As for property and money donated to aid societies; they will be the personal property of the person presiding over the society once the appointed agent takes possession of them. Agents working for an aid society are the deputies of the society president. It is stated as follows in **Hindiyya**: "If a person is given some money with the instruction to give it to a certain poor person, he will have to compensate for the money given to him, [i.e. pay its equivalent,] if he gives his own money to the poor person, (instead of giving the money handed to him). He will not have to compensate if he gives that money to another poor person. Supposing a person gives a present to someone: he will not have the right to demand his present back once he is given something of little value, [such as a sheet of paper given as a receipt,] in return for his present. A beggar should not be sent empty handed so long as it is not known for certain that he is wasting the money he is given at places that are harâm or that he is not in need. If he says that he will give the money that you give him to people in need, it is necessary to give alms to him." Therefore, people who collect donations should say that they will give the money to people in need and/or to other charitable people. Gift-making and almsgiving are called teberru' (donation). Forgiving a debt due to you is called ibrâ (acquitting, absolving).

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